

## COUNCIL MEETING

August 25, 2010

The Council Meeting of the Council of the County of Kaua'i was called to order by the Council Chair at the Council Chambers, 3371-A Wilcox Road, Līhu'e, Kaua'i, on Wednesday, August 25, 2010 at 9:08 a.m., after which the following members answered the call of the roll:

Honorable Tim Bynum  
Honorable Dickie Chang  
Honorable Jay Furfaro  
Honorable Daryl W. Kaneshiro  
Honorable Lani T. Kawahara  
Honorable Derek S.K. Kawakami  
Honorable Bill "Kaipo" Asing, Council Chair

Chair Asing: Can we have the first item please?

PETER A. NAKAMURA, County Clerk: First item is approval of the agenda.

### APPROVAL OF AGENDA:

Mr. Kaneshiro moved for approval of the agenda as circulated, seconded by Mr. Furfaro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matter is approval of the minutes of the following meetings of the council.

### MINUTES of the following meetings of the Council:

Council Meeting of July 28, 2010  
Special Council Meeting of August 4, 2010  
Special Meeting of August 11, 2010

Mr. Furfaro moved for approval of the minutes as circulated, seconded by Mr. Chang, and unanimously carried.

Mr. Furfaro: Mr. Chair, a moment of personal privilege. I just want to make sure that my letter was circulated about my departure today at 10 o'clock as I have an appointment that was set up back in March for this date and I will be leaving at 10 o'clock.

Chair Asing: Thank you.

Mr. Furfaro: Thank you.

Mr. Nakamura: Mr. Chair, yes, the letter was circulated for Vice Chair Furfaro.

Chair Asing: Thank you.

Mr. Furfaro: Thank you.

Chair Asing: With that, can we have the next item please.

Mr. Nakamura: At this time, Mr. Chair, there's been a request to take up agenda item on page 3, under Legal Documents communication C 2010-174.

LEGAL DOCUMENT:

C 2010-174 Communication (6/29/2010) from the Mayor, recommending Council approval of a Grant of Pedestrian Access Easement for Lepeuli Beach.

- Grant of Pedestrian Access Easement by and between the Wai'oli Corporation and the County of Kaua'i of real property identified in Transfer Certificate of Title No. 54,084 and further described as TMK (4) 5-1-03-003.

Chair Asing: Thank you. With that, I'd like to suspend the rules and I'm going to open it up for public testimony first.

There being no objection, the rules were suspended.

Chair Asing: Is there anyone in the public who wants to speak on this item? Going once...okay, come.

*(Hope Kallai handed staff a flash drive with pictures to be displayed during her testimony.)*

Chair Asing: Do you have a presentation that you want to make? You know, I wish you would let us know ahead of time so that we can set up and be prepared.

HOPE KALLAI: We'll certainly wait.

Chair Asing: Okay. Well, why don't we do that for now. How long will your presentation take?

Ms. Kallai: We only get three minutes.

Chair Asing: Okay, great, great. Okay, why don't we...how long will it take to set up?

Staff: A few minutes (inaudible).

Chair Asing: Oh, okay. Well, why don't you sit down and then let's have members of the public first, others. Is there anyone else in the public who wants to speak on this item? No. If not, why don't we do this, we're going to take a short recess. We're going to set up to have them make their presentation. We're in a short recess now, thank you.

There being no objection, the meeting was recessed at 9:12 a.m.

The meeting was called back to order at 9:21 a.m., and proceeded as follows:

Chair Asing: The meeting is now called back to order.

Mr. Furfaro: They're going to make a presentation?

Chair Asing: Yeah.

Mr. Furfaro: Oh, then I'm going to go sit over there.

Chair Asing:                      Okay. With that the rules are suspended.

There being no objection, the rules were suspended.

Ms. Kallai:                      I'm so sorry for this (inaudible) thing.    Good morning, Council.

Chair Asing:                      Good morning.

Ms. Kallai:                      Good morning, Honorable Chair.

Chair Asing:                      For the record, your name for the captioner.

Ms. Kallai:                      Hope Kallai, Tim Kallai, and Peter Waldo. And we're asking for this easement to be rejected at this point in time. There's way too many questions at the county level and at the state level to accept it. One of the major is there is no burial treatment plan for the three individuals that have fallen out of the trail area from cattle and they've been reinterred into the area intended to be pasturage. So we're asking for the easement to be rejected and the SMA permit to be revisited with the inclusion of the reburial site mapped and considered.

I believe this project should be considered as a major, not a minor, with a full public hearing and it needs an archaeological assessment and a cultural impact assessment. This is a cultural trail to a rich cultural resource and it has not been considered by the culture. It's only been considered by applicants and attorneys. So we really need to put it out to the public hearing process.

This is the actual SMA permit. We'll go fast through this and it's...the original intent was to create a 200-foot buffer zone between the makai pasture and the sandy beach area. The permit was granted with considerations that further evaluation requirements may...further evaluation and requirements and approvals may be required and that the public trail will remain open, and that the Ala Loa will remain open. These are the criteria that were in the actual permit. It was answered that there's no endangered species, that it will not affect historic sites or scenic view planes. This is a scenic view plane. This is an important resource. Is the project located within or near a historic settlement area? The applicant answered no. (*Wait, turn back.*) These, all these people are in the Ko'olau Cemetery in Lepeuli. It's a historic cemetery. Some of the graves are back to the 1850s. This is on the same piece of land, yet this is not recorded in the plan. Is the project located within or near a historic settlement area, cemeteries, burial, heiau, kuleana, houselots? Yes. Public schools? Yes. Cemeteries? This is the Christian Cemetery. It's full of a lot of people we know and I hope I don't hurt anybody's feelings by showing these gravestones. Most of them are Huddys and Lovells. This one, you have to go really close, but the spelling on Anahola, this one is born in Anahola, married here and buried here, but it's a-n-e, Anehola. This one makes me cry.

And this is the map that...this is the only map that's been included in this project. The yellow is where the individuals fell out of the trail and they've been reinterred in an undesignated, unmapped area, mauka, in the proposed pasture. This is unacceptable.

This is the letter that was written when we sent in the notice of the archaeological site that has been discovered since December. (*It's not going?*)

There needs to be a burial treatment plan. If the county is considering accepting any easement in the area where there are known human remains. It's socially unconscionable to not have a burial treatment plan. There's no reason to hurry into this decision. The Ko'olau Japanese Cemetery is in close proximity. This was not considered. There's a huge Japanese history here with Japanese school in addition to the Ko'olau public school. It went until the war when the principal was locked up in the internment camp. There is plenty history here, but it was answered no on the application.

Is the project within or near a Hawaiian fish pond? Well, there was a fish pond there. There is a fish pond I can see. I'm a retired fish farmer. I could make that fish pond work in a week or two.

Valued scenic resource. Hello, look at this. This is the best limu kohu in all of Hawai'i nei.

Affect existing shoreline, open space and scenic resources? This application seems to confuse open space and open range. They aren't the same.

This public view needs to be preserved, not turned into commercial pasture.

There are endangered species. There have been four monk seal pups born in 14 months. There are turtles due to be born on this very moon right now. None of this is considered.

Significant biological, economic and social importance, the limu kohu is of significance there and it's a significant wildlife reproductive habitat, yet the application says no. This all needs to be reconsidered in this permit. This coastal ecosystem, we cannot afford to have degraded.

There are erosion maps done. This is done by SOEST, it's 0.3 feet per year...

WILMA AKIONA, Council Services Assistant: Six minutes, Mr. Chair.

Chair Asing: Okay.

Ms. Kallai: ...over 30 years. In 2000, this very attorneys group...

Chair Asing: You want to wrap up. How much more you have?

Ms. Kallai: Okay, this is the erosion that they said there was no erosion, but in 2000 they asked for a boundary adjustment because of the erosion. There's so many mistakes in here that really need consideration. There was rice, there were lo'i kalo, there were freshwater fish ponds. We'll just go real fast and I won't even talk. Substantial effects.

The only thing that was considered is the impact of the T-post in this zone, not the cumulative impact of commercial cattle conversion of a coastal scrub habitat. So I'm, please, asking you to reject this proposal. There's no burial treatment plan. There's significant archaeology. The UH Mānoa Field School has just come out. There's no reason to make this decision now without any hard information.

Na'alahelenu (sic), it was one of the oldest sites on the island in 1998, but the science isn't done yet. This is a resource that we need to be proud of. And we need

to protect and we need to understand our past and our future. Thank you for your time.

Chair Asing: You done?

Ms. Kallai: (Inaudible.)

Chair Asing: Okay, thank you. Can we have the lights, please?

Ms. Kawahara: Wait, Hope. Do we ask...can I have...I meant to ask a question.

Chair Asing: Yes, as soon as we get the lights on, then we'll have questions.

Ms. Kawahara: Okay, it was one of her slides.

Chair Asing: Thank you. With that, questions, Councilmember Kawahara?

Ms. Kawahara: Thank you, Chair Asing. Good morning, Hope. It's good to see you here.

Ms. Kallai: Good morning.

Ms. Kawahara: I um...the question I had if...I know the lights are on, but there was an email regarding McMahon and the bones being reinterred and it said that it was near county...the county easement. Which easement are they talking about there? The incorrect easement that everybody thought it was?

Ms. Kallai: I believe so.

Ms. Kawahara: Or the current one that we're thinking of getting?

Ms. Kallai: From the location on the map, it's the one under consideration right now. It's the closest in proximity to it.

Ms. Kawahara: Okay, so...

Ms. Kallai: But it's just a big kind of blob on the map...

Ms. Kawahara: Okay.

Ms. Kallai: ...so it's really hard and it's really unclear as to where they were reinterred. And it wouldn't be a big deal to fence off. The reinterment site as big as your desk, out of a 600-acre pasture, to fence off human gravesites is not an outlandish request, so.

Ms. Kawahara: Okay, so the email said it was near the county easement, but it wasn't incorrect because it's the county easement that we're looking at now.

Ms. Kallai: It's the proposed county...we call it the wrong-of-way. It's the one that's in use, the as in now in use.

Ms. Kawahara: Okay and the bones...

Ms. Kallai: I believe...you guys haven't been told? You haven't been...

Ms. Kawahara: No, we...

Ms. Kallai: ...afforded any other (inaudible)...

Ms. Kawahara: The one we're looking at is the one that everybody's using, but it's not the one that we actually have. So that's important for me to know. So the bones that were found, they were reinterred, but they were originally found near that easement?

Ms. Kallai: In that yellow spot on the map.

Ms. Kawahara: In that yellow spot.

Ms. Kallai: That's all we know.

Ms. Kawahara: Okay.

Ms. Kallai: Um, yeah, and it was my understanding from an email from Nancy McMahon that the cows broke through, came down, and eroded the trail that is in now use, the wrong-of-way. And that's where the individuals were moved from...

Ms. Kawahara: Moved from.

Ms. Kallai: ...to higher upslope.

Ms. Kawahara: Okay, okay, thank you.

Chair Asing: Thank you. Any other questions? Councilmember Furfaro.

Mr. Furfaro: Thank you. I just wanted to check on some of the earlier photos, Hope. The cemetery that you presented us, these three: Japanese Cemetery, the Ko'olau Hu'ia Cemetery, and the Catholic Cemetery.

Ms. Kallai: I don't think I showed any of the Catholic cemetery.

Mr. Furfaro: Okay, so what we saw was the Hu'ia Cemetery?

Ms. Kallai: Correct.

Mr. Furfaro: Okay, up by the top of the old highway.

Ms. Kallai: Up on the top of the hill, uh-huh.

Mr. Furfaro: Thank you.

Mr. Chang: Thank you, Hope.

Chair Asing: With that, Councilmember Chang.

Mr. Chang: Can you specifically tell me where this yellow dot you're making reference...what exact area are we talking about?

Ms. Kallai: Well, I would say it would be on the Kilauea side of the proposed easement. That's as close as I can...

Mr. Chang: How far from the proposed easement?

Ms. Kallai: You'd have to ask Nancy McMahon or the guys that were there. I mean I have the map. I can give you a hard copy of the map if that would help.

Mr. Chang: Well, you know, my question it just...it seems as though the question really is are we going to accept the proposed gift or the path...the right-of-way? And I think it was what? July 7 that we had people testifying, and from my impression it was very difficult, it was very narrow, it was tough to go down, but I have to tell you I went down there on Monday and I was expecting it to be epic or tough or difficult. As I was walking down there, I had two words and I said, duck soup, walking down there. And to me it's a very, very easy way to get down there and I saw some of your slides and I understand your concerns, but I think the question really is are we going to accept this right-of-way to get down to the ocean. And the horizontal path, when you make reference to having surveys and studies anywhere in and around that area, if you're going along the horizontal easement, there are many trails that branch off there that go straight to the ocean. So to me, there are paths that are being trampled apart that if we stayed on what they...what the county access would be, then I think we're fine, if we're staying on that access. Because, you know, if you look at the...if you look at the original county path going down, to me you can get lost because you're going to walk and then you're going to get to a couple of boulders. And from there, which way do you turn? I think the right-of-way that we have right now, in my experience, is very easy to get down and I also think it's very easy to get up. Because if you measure from the shoreline to the end of the horizontal access, that incline...that long incline going up, to me if I was having a hard time walking, it's easier to go from the straight line where it's...where we're proposing right now versus coming from the other side. And I think the subject right now really is this right-of-way that the county can use to give public access.

Ms. Kallai: Well, I don't think right now the gradual Ala Loa is under discussion. What...it's my understanding is we're considering a redundant easement that's twice as steep as the existing one. And why aren't we maintaining our existing? If you say it disappears, how come we haven't defined it? Why has there been no maintenance on it in 20 years. If it...the trees need to be trimmed, let's trim the trees. Let's define what we own. And it is ADA compliant, ADA trail accessible compliant. This new trail would have to be ADA compliant. It could never be ADA trail compliant.

Mr. Chang: You know, I would say from my experience I don't know how you would be able to get anything, a trail especially with the original county trail ADA compliant because as I...

Ms. Kallai: No, ADA trail.

Mr. Chang: ADA trail, okay.

Ms. Kallai: ADA trail standards are different than A...it's not a wheelchair accessibility. It's rise to run and resting spots. It can't be this steep unless you have this amount of straight resting area to go and then you can go steep again. It's not that it cannot be steeper stairs. But the proposed easement, it's a new consideration and under the law, it has to be ADA trail compliant and it cannot be. It is a whole ball of wax that's being considered here. And it also ends in the

county...in the state sandy beach. The pins are down in the sand. There needs to be a shoreline certification of this (inaudible). So if the county's going to consider it, they know where the maintenance ends. It's a redundant trail. There's no need for these two trails right next to each other and what is the intention and who's benefiting from it? It's restrictive to user groups. It's restrictive...how many councilmembers could use that trail?

Mr. Chang: The current trail?

Ms. Kallai: Yeah, the wrong-of-way.

Mr. Chang: I would probably say every single seven people on this table. I would probably honestly say every staff member here. And I...barring any physical concerns, I think everybody can make that existing trail. It's a very...I'm saying this, it's a very...

Ms. Kallai: The rocky trail...Lani, can you...would you go up that rocky trail again?

Mr. Furfaro: Excuse me, just the rules of order here.

Mr. Chang: You asked me a question and I'm just being...

Chair Asing: Everybody...(gavel hammered 2 times). Okay, with that, Councilmember Chang, continue.

Mr. Chang: Yeah...

Ms. Kallai: I'm sorry.

Mr. Chang: I guess if you're asking me sincerely...

Ms. Kallai: A-ha, me too.

Mr. Chang: I've been on a lot of trails and I will just tell you this. Again, when I was going down the trail I thought it would be epic, whoa, what am I going to expect, and I had two words and it was duck soup. So if you're honestly asking me if...how many people on this table can do it, I would say everyone on this table can do it. I would say every staff member on this side could do it and barring a sprained ankle or broken ankle, I think everybody in the audience could do it.

Ms. Kallai: Well, mahalo ke akua it was dry when you went because it's really scary when it's raining.

Mr. Chang: No and I understand that, but we have to...you know that...I don't want to go off on a tangent, but if it's raining, we're not going to go on the Hanakāpī'ai trail, we're not going to go, you know, the various other trails. We just...

Ms. Kallai: People fish all weather. People go to the beach all weather.

Mr. Chang: Okay, but local knowledge I'm sure they have tabis or whatever they need. But you know, Chair, I have no other questions. Thank you, Hope.

Chair Asing: Okay, thank you. With that, Councilmember Kawakami and then Councilmember Furfaro.

Mr. Kawakami: It's just a question. The rocky trail that you're referring to, are you referring to the current county easement or the proposed one? The current one, yeah?

Ms. Kallai: Yeah.

Mr. Kawakami: Okay, the proposed one is much easier?

Ms. Kallai: No, the proposed one is really steep. It's twice as steep and half as long as the existing owned county right-of-way.

Mr. Kawakami: Okay, thank you.

Ms. Kallai: The proposed easement's the one in the middle. It's like the steep rocky stairs and this is what is so hard for people to understand...

Chair Asing: Okay, hang on, hang on now. I think you've answered the question, thank you. With that, Councilmember Furfaro.

Mr. Furfaro: Oh yeah, just very briefly, Hope, I just want to make sure you understand the rules of the council here.

Ms. Kallai: I guess I don't, I'm so sorry.

Mr. Furfaro: You had the six minutes to speak, make your presentation, then the councilmembers can direct questions at you as they are recognized by the Chair. So from there, you cannot take the floor away...

Ms. Kallai: I'm so sorry.

Mr. Furfaro: ...from Mr. Chang and direct it to Lani Kawahara. But Lani Kawahara can direct a question to you when she's recognized by the Chairman.

Ms. Kallai: Okay.

Chair Asing: Thank you. With that, Councilmember Bynum.

Mr. Bynum: Just, you went through this quickly and there was a letter from Dr. Byrne?

Ms. Kallai: Correct.

Mr. Bynum: And can you supply those documents to the council and what was the letter from Dr. Byrne?

Ms. Kallai: The UH Mānoa Field School was on Kaua'i for a month and they came to Lepeuli for a day and collected charcoal for radio carbon dating of the archaeological site that was eroded and more exposed last December. It's a significant site. It's...there's rock...stone paved rocks that go across and erode 20 feet across, but the arch site probably goes 60-80 feet.

Mr. Bynum: So, Hope, the letter was related to this archaeological...

Ms. Kallai: That they've collected the sample and they're sending them to the lab for radio carbon dating. And they don't have many firm dates on the antiquity of the Ko'olau District, so they're really eager to get these dates. The other end of the trail is 600...is a site that's 600 years old and so this one looks like it's of significant antiquity.

Mr. Bynum: Okay and so and the SMA permit that you're referring to is the SMA minor?

Ms. Kallai: SMA minor.

Mr. Bynum: That was produced by the county related to this proposal that's before (inaudible).

Ms. Kallai: It enables the CDU permit process to continue, the SMA minor.

Mr. Bynum: Thank you.

Chair Asing: With that, Councilmember Kawahara, do you have any questions for Hope?

Ms. Kawahara: No, no, I...she answered them.

Chair Asing: Okay, thank you, Hope. Is there anyone else? If not, Don, did you want to say anything? Mr. Taylor.

Ms. Kawahara: Mr. Chair?

Chair Asing: Yes.

Ms. Kawahara: Just for the record, Ms. Kallai had asked...I have discs from DLNR for all the submittals that came through on the CDU request and she asked me to submit it to the council, which I will be doing, so two discs of information of all the testimony that was given to DLNR.

Chair Asing: Okay.

Ms. Kawahara: Thanks.

Chair Asing: Thank you. With that, go ahead, Mr. Taylor.

KEN TAYLOR: Chair and members of the Council, my name is Ken Taylor. I sit here today asking also that you not accept this offer at this time. I think there's some misinformation that has been given to the state in this process. I think that needs to be corrected. I think that there's archaeological work going on that needs to be completed before decisions are made and I think...I just think that for you to move forward with adopting this proposal at this time with all of this unknowns out there would be wrong and not in the best interest of the community of the island. Thank you.

Chair Asing: Thank you. Councilmember Furfaro.

Mr. Furfaro: Thank you. Thank you, Mr. Chair. And you know, I just want to make sure we're all very clear on what we have here, Ken. We have an applicant in front of the Department of Land and Natural Resources for a

application and permit that has a condition in 16, condition 16. Condition 16 says that the applicant...the applicant can in fact or should in fact work with the County of Kaua'i to define or improve the existing legal accessway to Lepeuli. That's what's before this group here. So I want to make sure when you say to us that we should not accept it and so forth that becomes...in my opinion that becomes an action request of us by the DLNR and then quite frankly fulfills the portion of this application that's in front of this county.

Mr. Taylor: My comments was not to accept it at this time.

Mr. Furfaro: Yes, but you're not really hearing what I'm saying.

Mr. Taylor: I heard what you're said.

Mr. Furfaro: Okay, so you know by not accepting it they have fulfilled condition 16 of this application. They can go...

Mr. Taylor: I believe what we saw earlier...

Mr. Furfaro: Excuse me, Ken, let me finish. They can go back to the DLNR and say we made a presentation to the County of Kaua'i and they do not want the additional access or the new access or so forth. To me that probably fulfills condition 16 which is in front of us. Now I do have for the rest of the councilmembers quite a few historical documents that deal with issues with the Ala Loa and quite frankly we can move to accept or deny this today and they can report back to the DLNR on their application. We can subsequently put a new item on our agenda that asks the state to give us an overview of the Ala Loa as a separate item...as a separate item. And, you know, that may be where we go today. But just to confirm with what I believe this says is today's business is about accepting this or not accepting this as condition 16. If we move on a new item, and I have no problem moving on a new item, I'd certainly like to hear from the DLNR about the statements associated with an Ala Loa in all parts of the island. But I just want to make sure you understand that doing nothing or not accepting this fulfills, in my opinion, fulfills this portion of the application. That's how I see it.

Mr. Taylor: May I comment on that?

Mr. Furfaro: Go right ahead.

Mr. Taylor: First of all I think what you saw earlier was that in the application that they misrepresented what was in existence. So I think that in itself tells the story. I think that...I'm not saying yes or no on the path acceptance, I'm saying defer it at this point in time until all of the information is in. But I think also if indeed this information in the application was misrepresented, then that should be corrected before you accept item no. 16 in the document.

Mr. Furfaro: I understand what you said and I did watch the particulars and you know, on the Gomes side of the family we have a number of people that are Huddys as well and Auntie Lydia Nakatsuji was a Huddy, Uncle Bill, you know, and I'm just saying at this point what's been tasked to us... Now, if we want this to branch off into items like getting a report back on the status and condition of the Ala Loa and so forth, I'm saying I'm willing to put a new item on the county agenda when the state is willing to communicate that to us. I know that my office at my direction has asked not once but twice to get an update and the most recent thing we got is they are going to defer until the September 9<sup>th</sup> meeting and possibly a report on a site inspection and so forth. I also understand that there has been efforts between the Grove Farm Museum Group, Wai'oli, to meet with

those individuals about certain past access rights and so forth. And I would like to cultivate a opportunity for that to happen between those families and Wai'oli. But what's before us right now is that number 16. If we don't accept it, they go back and say, the council did not accept that new access easement. If we do accept it, it gets recorded, they go back and say that access is now recorded because the council accepted it. That's the business in front of us today. Again, I would say I'm willing to put a new agenda item when I know the DLNR is actually going to report back to us and if they decide there's a point where the right-of-way and the new easement or the current easement crosses over Ala Loa, which is their kuleana, then they can tell us that, and we'll have a new item on the agenda. And that...that's a summary of kind of where I'm coming at today. The business in front of us is accepting or not accepting this piece. That's what's in front of this council. I...

Mr. Taylor: Or defer it. You can defer it. You don't have to accept or you don't have to deny it.

Mr. Furfaro: Well, thank you for your opinion, even though I didn't ask for it. You didn't hear what I'm saying. I'm willing to put a new item item on.

Mr. Taylor: I appreciate it.

Mr. Furfaro: A new item specifically dealing with the Ala Loa, okay.

Mr. Taylor: I'll be looking forward to that.

Mr. Furfaro: So we agree we have a difference of opinion what the next step is.

Mr. Taylor: Thank you.

Mr. Furfaro: Thank you. Thank you, Mr. Chair.

LINDA SPROAT: Aloha Council People, my name is Linda Sproat and I don't know if it's a question or a statement. But anyway, my thinking is, and I may be wrong, that we have not heard back from the DLNR yet. With...we were with Tiger Mills when she was there. I thought that it might be a good idea if we could defer this slightly until we heard back from her. I don't know if that's good or bad or otherwise. But Jay, what do you think about that?

Mr. Furfaro: Well, I've had my staff talk with them and then I understand even when they come up to a conclusion, they're going to go into another particular process with the Attorney General's Office. So, this could take us along way.

Ms. Sproat: Okay.

Mr. Furfaro: Obviously we could answer this document by saying we don't want the new path.

Ms. Sproat: Okay.

Mr. Furfaro: But we put a new agenda item on...

Ms. Sproat: Right, right, I understand that part, okay.

Mr. Furfaro: But that lets them clearly know...

Ms. Sproat: So, yeah, we really don't have a choice at this point then, huh, because we haven't heard from them.

Mr. Furfaro: And I think our choice is to put the new item on, but it may be three or four months from now before the state is ready to give us information because they have not...they have not really responded to our request for an update and now I understand Tiger Mills is on vacation again and we're dealing with an administrative person.

Ms. Sproat: Okay, thank you very much.

Chair Asing: Thank you. Oh, you have a question?

Mr. Bynum: Yeah.

Chair Asing: Councilmember Bynum.

Mr. Bynum: As I...last time I was here I said this is a difficult situation because we have to at least...I'll speak for myself, I have to delineate what's the county's responsibility versus what's the state's responsibility. It appears that the state hasn't gotten back to us. We deferred to try to get more information. That's not happening. Other questions are coming up. But this is only one element that the state has to deal with, not the entire element. And so, yeah, I'm struggling with this a little bit because I have a pretty clear idea what I hope the county does and I can address that, but there's issues that are much bigger, yeah? Have I got this right, Linda?

Ms. Sproat: I think so. That's the same way I feel. You know, we can make decisions here, but you know, and we're all working very hard to get to some decision, but we're still waiting on the state.

Mr. Bynum: But a lot of the issues that Hope addressed...

Ms. Sproat: Right.

Mr. Bynum: ...are really not in the county's purview. They're in the state and they're not resolved, right?

Ms. Sproat: Exactly, yes.

Mr. Bynum: And if we make a decision today either way, there's still many unresolved issues at the state level. Is that your understanding?

Ms. Sproat: That's my understanding also, yes. Thank you very much.

Mr. Bynum: Thank you.

Ms. Sproat: Yes, Lani.

Chair Asing: Go ahead, Councilmember Kawahara.

Ms. Kawahara: Auntie. Thank you, I have a question, Auntie. I'm considering sending this back to administration to amend what they're asking for and I wanted to show this to you and ask you what you thought of this (see Attachment No. 1) because it just came to me. So if it would be something that you might think would be agreeable.

Ms. Sproat: Shall I sit down there and do it? I got to sit right here and do it? Oh.

Ms. Kawahara: So, I was going to...these are for the other councilmembers. So what I'm looking at is the county attorney split it up into two easements, an A-1 and an A-2. The A-1...the top part of the easement that the administration requested is a little bit...is close to the Ala Loa and the whole top of the trails where we're having the issues, yeah. So I'm thinking we could take instead for today just take the bottom easement which uses the current...the one that we actually own that is less steep and take the bottom part that are one that we own and is less steep that comes out into the rocks right now and use the bottom part of easement that Wai'oli is offering to add to it which would put us straight onto the beach.

Ms. Sproat: Let me ask you a question to make sure I got it right. Okay, we want to take both trails and connect them on the bottom...

Ms. Kawahara: Just the bottom part, yeah.

Ms. Sproat: Yeah, on the bottom part.

Ms. Kawahara: Since you're here to testify it would be great to see...

Ms. Sproat: That would help an old lady like me a lot when you walk up the trail with 25 pounds of wet limu.

Ms. Kawahara: Right, so it's kind of...

Ms. Sproat: It's pretty heavy.

Ms. Kawahara: It's kind of an equal...it's kind of an equal compromise because we will get...we will keep what we already have that was designed by a trail maker that is less steep, that has the cutbacks, but it connects at the bottom with Wai'oli...what's Wai'oli offering easement A-2.

Ms. Sproat: Yeah, I think...

Ms. Kawahara: Because that would totally take away all the issues on the top near the Ala Loa. I mean it wouldn't take it away, but we could...

Ms. Sproat: Right.

Ms. Kawahara: It would be stayed, yeah?

Ms. Sproat: Mm-hm.

Ms. Kawahara: But in accepting easement A-2, we would be accepting part of what Wai'oli has offered.

Ms. Sproat: And then, okay, and then we will do away with the other part. We won't need...

Ms. Kawahara: We wouldn't worry about...

Ms. Sproat: Yeah.

Ms. Kawahara: Yeah, that part would be stayed, I guess. It'd kind of be in limbo for awhile. And this, to me, would give incentive for the county to actually honor what it had in the first place to do this and maintain it, yeah. It would be an incentive to make sure that gets open, but then also it also honors the gift that Wai'oli gives us because in fact that part at the bottom, easement A-2, does make it better to get to the actual sand instead of the rocks, where I'm told that this one ends.

Ms. Sproat: Much easier I think.

Ms. Kawahara: So I wanted your opinion on that and what you're looking at this morning.

Ms. Sproat: I think it's a good idea. My...it is my opinion...

Ms. Kawahara: Okay.

Ms. Sproat: ...that I think it will work...

Ms. Kawahara: Okay.

Ms. Sproat: ...especially for older people.

Ms. Kawahara: Thank you.

Chair Asing: Thank you. Is there anyone else? Yes, Glenn

GLENN MICKENS: Thank you, Kaipo, for the record Glenn Mickens. From the dialogue I've heard about this issue, I completely agree that I think it should be deferred to be able to clarify some things and I guess, Lani, is going to introduce an amendment. So, I think the proper way to get this thing clarified is to go ahead and defer it anyway; it's my opinion. Thank you.

Chair Asing: Thank you.

BRUCE LAYMON: Hello, Bruce Laymon for the record.

Chair Asing: Good morning.

Mr. Laymon: I'm the owner of Paradise Ranch and I work with the Wai'oli Corporation. Thank you, council, for allowing me to speak. I think that something that I've noticed is missing in all of this and I hope you consider it because the original request for the land from Wai'oli in the 1970s, early 1980s came from the local fishermen and that transpired into the Trust selling at, I believe, under \$7,000 for three-and-a-half acres. Now whatever transpired from there, whether the trail was not taken care of over the last 20, 30 years, that's not something that the Trust should be responsible for or should become a reason why other issues should come into play. Now here's a second opportunity that the state has requested and made a requirement of my application to see if we can work with the county, work with the administration and with Wai'oli to find better access.

And I guarantee you, as I sit here, I cannot believe some of the testimony that I've heard about this trail. The last time we came here there was a young guy who's probably half my age that testified in front of you folks that you have to climb over rocks, you have to scale them, you have to...it's almost impossible, it's treacherous, it's dangerous. Dickie and I walked down there in like two-three minutes without using our hands anyplace. It was...I mean I even turned around, he wasn't even breathing hard. And for that people to make the assertion that this trail is not easier, that's just not true, and I don't know what kind of work you guys are going to do on the county easement that you have now, but this is the trail that everybody uses. And we have one of the fishermen back here. Now, I don't go and ask the people that trespass on the property and like going down there in the nude and doing whatever they do. I ask the local fisherman who was the reason why this came up in the first place 30 or whatever years ago. I talk to Sherwood Iida who goes down there three, four times a week. I've even talked with the Akanas. I've talked to the Hiranakas, the Huddy family. I've talked to the Apanas, local fishermen, the Kauis, the Ornellases that have been going down there. The trail that they want is the one that they're offering. They're happy with that. They don't...even when it's raining...we were...I was with the Trust and the Sproats and it was pouring rain. And guess what? Two local fishermen were coming up, up that trail. They didn't go up and try to trespass onto the property. That's the trail that they use. They had tabs on and if...I think you folks should consider and maybe Sherwood, you can ask him questions, what do the local fishermen want over there? They don't need to go trespassing on other people's property and go lateral. In fact, Dickie, you were there with us. You mentioned a lot of those trails go down and they just come in and make all these trails all along there, right? More trails, more erosion, right? But what about the trails that go mauka that are housing all those illegal campers and squatting that come in from that left side.

WILMA AKIONA, Council Services Assistant: Three minutes, Mr. Chair.

Mr. Laymon: (Inaudible) will prevent that. I think you should consider this trail and it is gift and you can either take it or not. But I think it would be a disservice to the local fishermen not to have access provided for them and this is the one that I think and I know that they want, so that's all I wanted to say. Thank you.

Chair Asing: Thank you. Any questions, councilmembers? If not, thank you. Is there anyone else?

STUART WELLINGTON: For the record, Stuart Wellington. I just wanted to make sure that we stay focused on what the county decision and what is the state's jurisdiction. But I also want to bring up the fact that Mr. Laymon has had the courtesy to allow all of this time to defer, get your information, and all of this. Meanwhile as an industry, the beef industry, which is struggling, he has taken out a major part of his pasture so that once everybody decides where this fence is going to go, then he can incorporate that back into his grazing system. So in the meantime of us trying to decide what's going to happen, we're affecting an industry that's already struggling and we need to make a decision, whether it's to accept it or not, and...so that as a businessman he can continue what he needs to be doing. You know, the economy is really bad. You know, it's...ultimately it can affect other people's jobs. So, keep that in mind, you know. I know there's a lot of discussion, so.

Chair Asing: Thank you.

Ms. Kawahara: What was your name? I didn't get...

Mr. Wellington: Stuart Wellington.

Ms. Kawahara: Oh, I have a question. So you're familiar with the property? I probably should have asked Bruce, but you're familiar with the properties?

Mr. Wellington: I'm...

Ms. Kawahara: The entire...the entire actual property that we're talking about is six, about...almost 600 acres, yeah? There's one little area that we're talking about is maybe 5, yeah? Is that right?

Mr. Wellington: Yeah, but see when you develop pastures and I'm familiar because I managed that property when it was owned by Meadow Gold or leased by Meadow Gold I was a manager. So I'm really familiar with the property, even the burials and everything. I won't get into that because that's not what I'm here for. But when you design a rotation, you're going to...you're not going to just use 5 acres, you know. So if it may be that whole section could be broken into three different pastures depending on how...how the layout is. So, ultimately you could be affecting about 150 acres just by tying up that 5 to 10 acres if you don't, you know, design your fence. The fence is going to be put up so that cows don't go on the beach, cows don't go to the trail, you know, so all of that is going to be protected. Where, you know, if the state has to make decisions, that's their kuleana. I think you need to decide whether or not you're going to accept it or not for the best interest for the people of Kaua'i. So, but on the business side, I just wanted to make sure that everybody's aware that we're affecting, you know, an industry that's already struggling and pasture management is very big. If you drive around the island right now, you can see the drought effect and when you tie up a pasture like that, you affect the whole operation. So, thank you.

Ms. Kawahara: I'm glad you're here because I am...well, I've been curious about it and since you mentioned it about affecting the whole thing. So the 5 acres that we're talking about, that there's a plateau that doesn't include the 5 acres, yeah?

Mr. Wellington: Mm-hm.

Ms. Kawahara: So the 5 acres are the sloped part. Okay, thank you.

Mr. Wellington: Yeah.

Chair Asing: Thank you. With that, I'd like to call the meeting back to order. Councilmember Furfaro.

Mr. Chang: I think Mr. Sproat wanted to testify.

Chair Asing: Oh, David. I'm sorry, David.

DAVID SPROAT: For the record, David Sproat. Thank you, Councilmembers. I'd like to throw one more thing into the mix. Personally I don't have a problem with either trail. I've done both of them. I have a...I think the council should consider, as you decide what to do, what to accept, I don't think you should own two trails. You double your liability. Maybe Lani has a compromise solution, I'm not sure. Because if you're going to own two trails, you double your liability and that was my position. I talked to Dickie and I said, if you accept one trail, then you need to maybe get rid of the other one. To only have one eventually makes sense to me and that's what I'm saying. You say accept the second one, what

do you do with the first one? So, that's what I'm throwing into the mix as you deliberate and consider. The larger issue is with the state and that's another venue.

Chair Asing: Thank you. With that, Councilmember Furfaro.

Mr. Furfaro: Thank you, David.

Mr. Sproat: Yes.

Mr. Furfaro: Excuse me, David, good morning.

Mr. Sproat: Good morning.

Mr. Furfaro: So I heard you clearly, accept one, either one, doesn't matter, but accept one based on your thinking of the liability and earlier you were in the audience when I said my intent is to continue to work with DLNR and get us to a point that we can have some clarity on the Ala Loa. It might be good for...but it will take some time. You do realize that their report still has to go to the Attorney General and...

Mr. Sproat: Yes, I realize that.

Mr. Furfaro: Okay, thank you, thank you.

Chair Asing: Dickie.

Mr. Chang: Thank you, Mr. Sproat. So, let me ask you, which trail do you feel is an easier, safer trail.

Mr. Sproat: You have to consider everything. You have to even consider what Hope said. She said the trail needs to be ADA...what is it?

Ms. Kawahara: Trail...ADA trail, I think.

Mr. Sproat: An ADA trail anyway. So you have to consider and what the county owns now, that rocky trail it has switchbacks to it so it's not as steep. It goes back and forth and back, so it lets you down easier than the existing trail. I don't have a problem with the existing trail. But for ADA purposes, then you have to consider that. So it's hard to say. It depends where you're coming from and what you're considering. I didn't know about the ADA trail requirement.

Mr. Chang: Yeah, and of course, neither did I, but so when was the last time you went on the old county trail?

Mr. Sproat: About a month ago, we've been going down there, checking it quite a bit...I mean over the iss...you know, about the issue...

Mr. Chang: Yeah, because when...

Mr. Sproat: ...or a couple weeks.

Mr. Chang: Because when we went out, myself, yourself and Bruce...

Mr. Sproat: Yes.

Mr. Chang: Remember we went out and then we kind of turned around...

Mr. Sproat: Right.

Mr. Chang: ...because we didn't feel it was maintained, so we said, hey, let's go turnaround, this other one is easier. So we just went, pfft, straight down. So, I just wanted to get your opinion because when we were out at that lookout area, looking at the nenu and the kala schools down at the bottom, I think we turned around because it was obvious that it wasn't maintained and this other trail would be easier for us to get down.

Mr. Sproat: It has to be better marked. I knew where the trail went. I just didn't point it out to you.

Mr. Chang: Yeah, yeah, yeah, okay, thank you.

Chair Asing: With that, Councilmember Bynum.

Mr. Bynum: Yeah, so you said the county trail is open now? It's been open?

Mr. Sproat: From what I saw it is. Somebody's been cutting it.  
You saw that, Dickie?

Mr. Chang: Yeah, by cutting the entrance, the beginning, the ending, but not in-between.

Chair Asing: Councilmember Chang.

Mr. Chang: Oh, sorry.

Mr. Sproat: Yeah, sorry, sorry.

Chair Asing: Councilmember Bynum has the floor, please.

Mr. Bynum: I just, yeah, I'm done.

Mr. Sproat: And as a comment to that, what Lani has proposed has to happen actually if you use what you already own. The trail to get to the beach has to come back to the existing trail that's used, the trail that has evolved.

Mr. Bynum: And I guess I do have...

Chair Asing: Go ahead.

Mr. Furfaro: May I ask for a personal privilege? I have to leave. I was supposed to leave at 10 a.m., but let me just say I do intend to put a new agenda item on the agenda in planning for DLNR giving us an update and also following up on the queries of the existence of an old Ala Loa. I have to leave. Thank you, Chair.

Chair Asing: Okay, with that, Councilmember Bynum.

Mr. Bynum: So, yeah, I...the trail that the county owns was surveyed by a trail person who, you know, met the standards, but I also agree that the lower section of this gift, A-2, improves that trail and makes it even more passable.

Mr. Sproat: That's true.

Mr. Bynum: You know, it would be adequate for everyone, fishermen and as Linda said, you know, people who like myself are getting older and may not have as easy time with this new trail and so, I'm warming to this idea of a compromise, but I think we would need the landowner, I think, to agree in terms of splitting it. The way it's surveyed, it's split already, yeah, A-1 and A-2, because I do want the county to fulfill its responsibility to put a trail access down to the beach and to do that in a manner that serves the greatest number of people. So, thank you.

Chair Asing: Thank you. Councilmember Kawahara?

Ms. Kawahara: Just to verify. The one that we actually own, you used to walk it when it...

Mr. Sproat: I've been on that trail, yes, yes.

Ms. Kawahara: And fishermen used it...

Mr. Sproat: But I have to be honest, I've used the evolved trail, the one proposed now more than I've used the other one.

Ms. Kawahara: Because the other one hasn't been maintained.

Mr. Sproat: Was not maintained, yes.

Ms. Kawahara: Okay. You're aware of it when it was maintained and you used it as a fisherman?

Mr. Sproat: You mean the...

Ms. Kawahara: Our real one.

Mr. Sproat: No, we use this...the exis...the proposed one now.

Ms. Kawahara: Okay.

Mr. Sproat: Because that's the trail that evolved.

Ms. Kawahara: The one that evolved because the other one wasn't maintained.

Mr. Sproat: Right, right.

Ms. Kawahara: Okay, thank you.

Mr. Sproat: Sure.

Ms. Kawahara: Thanks for your testimony.

Chair Asing: I have a question, David. It's really a follow-up on really what you said, which is, you know, either/or, but not two anyway, it just increases our liability to have two, so we should choose either/or of the two. Am I correct?

Mr. Sproat: I'm saying it should be one trail.

Chair Asing: Yes, okay, great, thank you very much.

Ms. Kawahara: Thank you.

Mr. Bynum: Thank you.

Chair Asing: With that, I'd like to call the meeting back to order.  
Mr. Chang.

There being no one else wishing to testify, the meeting was called back to order, and proceeded as follows:

Chair Asing: Mr. Chang.

Mr. Chang: I don't have a question.

Chair Asing: Okay, I...were you going to propose...

Mr. Chang: Are we coming into a discussion?

Ms. Kawahara: I have a proposal.

Chair Asing: Yes, I'm calling the meeting back to order.

Ms. Kawahara: I'd like to make a motion.

Mr. Kaneshiro: Well, I think we're in discussion at this point,  
aren't we?

Ms. Kawahara: Okay.

Chair Asing: Yeah, further discussion.

Ms. Kawahara: Okay.

Chair Asing: Go ahead, councilmembers, discussion.

Mr. Kaneshiro: Well, we don't have a motion on the floor anyway,  
so. Sorry about that.

Ms. Kawahara: Oh.

Mr. Kaneshiro: We don't have a motion on the floor anyway, so I'll  
make a motion to approve.

Ms. Kawahara: Ahhh, I said I wanted to make a motion.

Chair Asing: Why don't we hang on, we are in the discussion  
phase first...

Mr. Kaneshiro: Okay.

Chair Asing: Any further discussion on the item?

Mr. Kaneshiro: Okay, may I, Mr. Chair?

Chair Asing: Okay, go ahead, yes, go ahead.

Mr. Kaneshiro: Thank you for the opportunity. You know, I don't have any problem approving what...the generosity of Wai'oli Corporation. I think what has been brought before us are several issues and first and foremost for me, if we're going to best represent the people of Kaua'i, accept this easement, let the...everybody else work it out later. How do you, you know, how do you work it out to make both easements perhaps into one easement and the safest for the people of Kaua'i. We have the generosity of a corporation that is willing to give us an easement today. Who knows what may happen tomorrow? We may not have that opportunity. So, for me, you know, if we best represent the people of Kaua'i, accept the easement that is before us today, let both sides get together, let some public input come in, let's try to work it out with the fishermen and everybody else, and perhaps combine both easements into an easement that can suit everyone. So, I'm ready to vote for acceptance.

Chair Asing: Thank you. Councilmember Kawakami.

Mr. Kawakami: I am in agreement with that last statement and I think, you know, you gotta go back to the original communication and it was from the administration. Now, we have a current easement that's not being maintained. And there we have a communication from the administration asking us to approve this new easement, and to me, that's a commitment to maintain at least this access. Now if you guys want to just deny it, we can go ahead and have no access and then we have no commitment to even maintain it because it hasn't been maintained all these years anyway. So, to bring us all the way back to the original communication, it's from the administration asking us to approve it. So, I'm willing to support it already.

Chair Asing: Thank you, any further discussion? Go ahead Councilmember Chang and then Councilmember Bynum.

Mr. Chang: Thank you, Chair. I intend to approve this. I think it's a great gift. I wanted to get out there and do my due diligence. As I talked to community members, I was recommended to meet with Chief Sproat and I had asked the Chief, hey, would you mind if I bring Bruce Laymon along so we can talk story and ho'oponopono and the Chief said, hey, I like Bruce. And so we went down there, we walked, we looked, we assessed. I believe and as I said it earlier, I believe that everybody in this room can make it down and make it up, you know, mind you maybe a little bit slower going up, but I think it shows that it is maintained because outside of...I think where the rocks are strategically at, it helps you navigate and if you need to hold on, you can hold on, but there's also, you know, like pieces of wood that was planted, like you have makeshift steps. And when I hear something about a trail that had been evolved, you know, in the local style days, it was always shortcut or cut short, you know, the fastest way you can get to where you want to go and I think it naturally evolved because that was the way that, I think, everybody could get down there safely. And if we are getting a gift, it's a total different subject that Mr. Furfaro wants to put on an agenda, I think I will wholeheartedly agree that that would be a different agenda item. But at this point, based on what the subject matter is, I will be supporting this to approve. Thank you very much, Chair.

Chair Asing: Thank you, further discussion? Yes, go ahead.

Mr. Bynum: Thank you. I very much appreciate that we want to resolve this issue. I hope that we do it today. I think some interesting things have come up in the dialogue and you know we previously had an executive session that related to the liability issue that came up again here today and I want to bring this to a conclusion today. I agree with my colleagues, but I do have some questions and...yeah, before we make a final decision, I'd like to have a short recess to discuss it with the county attorney.

Chair Asing: Sure, that's fine.

Mr. Bynum: And...because I think there's some merit in what...I think there's a win-win here and I hope on all of these issues, even the ones that are not the county's issues, that there's ongoing dialogue and an attempt to address everybody's concerns because I think there is win-win solutions both for our county's issues and for the larger issues that we're not responsible for because there's a lot of caring and good sincere people here and I hope that we do come to that conclusion. But in terms of our responsibilities, I'd like to do that today. I think there's some merit to dialogue, but I'd like an opportunity to speak with the county attorney before we make a final vote.

Chair Asing: Okay. Further discussion?

Ms. Kawahara: Yeah, county...

Chair Asing: Councilmember Kawahara?

Ms. Kawahara: Yes, Chair, may I address Councilmember Bynum. Would it be okay to go into recess after I have my discussion point?

Mr. Bynum: Sure.

Ms. Kawahara: Okay, thank you. *(Slide of A-1 and A-2 easements displayed.)* Okay, so what I'd like to do is staff was kind enough to draw up something for me so that I could show people what I was talking about with Auntie Linda and my hope is that this would be one of the win-win situations. As we...as I discussed as I had spoken with Miss...Auntie Linda, we...the county attorney had broken the agreement up into two separate easements...I guess also with Wai'oli. So, the agreement was with two separate easements. Easement A-2 is the one that I wanted to focus on today basically because of the issues that I have with concerns about the steepness *(oh, thank you, it's just this one)* of the one we're considering taking versus the one that has the cutbacks that we actually already own. Easement A-2 would be the best of both worlds. It allows us to keep just one easement, reducing our liability for two. It also should be noted that the one that does have the cutbacks is actually owned singly...single-handedly by the county and wouldn't be a shared easement, which is actually...ours isn't an easement, it's a lot that we own. So it would be the best of both worlds because it takes our actual ownership, the trail we own, that is a better trail, in my mind, that has cutbacks, that was designed by Mr. Daylor (?) and it takes our trail and it links it to A-2, the bottom part, which is a better trail that goes to the sand instead of straight on to the rocks. So, my...what I was hoping to do and I'm not sure how this parliamentary would work. I have a motion that addresses that so that it can be officially requested and done. So everybody out there can understand, that's what it is that I'm trying to do a win-win. It reduces the county's liability by keeping what we already have, not adding a second one. It also improves the trail that we already have by making it connect to something that Wai'oli has generously offered. So,

that would be my discussion and if we were to continue on and follow the reasoning of one of the previous speakers about having a trail that was main...was going to be maintained in the future if we take the second easement, my commitment would be to the one we already have and my question would be why we didn't maintain it and I think we owe it to the county that we own that easement and that's what we should maintain. That it fell into disrepair, whatever the reasons are, I think it doesn't matter. Today is where we are now and improving that, maintaining it is a win-win situation. It will make the county fulfill its responsibility in owning the trail that we already have and making it accessible and to maintain it and then adding the easement A-2. Thank you for the time.

Chair Asing: Thank you.

Mr. Bynum: Mr. Chair?

Chair Asing: Can...go ahead.

Mr. Bynum: I just wanted to follow up while this is up.

Chair Asing: Go ahead.

Mr. Bynum: Whenever you...as I said, well, okay, that's okay. *(This pointer's not working?)* Okay, I think...like I said before, I really want us to conclude this today and accept something. I think there's a lot of merit to the discussion that happened. I would be concerned if we accepted the trail that is in common use right now. I don't have a problem using that trail now. I might in a few years, but I hope that we have a commitment from the administration if we accept that to improve this trail that was designed by a trail maker that is...has switchbacks, is more passable and I think there's a lot of merit to...it actually improves it, getting the second section *(oh, this pointer is working)*. This section here, if it appends this trail, makes it...improves it in terms of safety. So, my concern would be we accept this trail, does...and the question I'm going to ask the county attorney, does it increase our liability and you know, is it going to preclude us improving the trail that I believe the county has a responsibility. We, you know, the Wai'oli Corporation graciously gave us this trail. We invested in people to map it out professionally, to...I'm not...I hear people talking about ADA trail standards. I haven't gotten that answer, you know, directly, but I think...yeah, so I would hate to see us just keep this and never improve this and make it available for everyone. So I think there's some merit to the suggestion of taking this portion of the easement, concluding this, fulfilling our responsibility, but making sure that it's accessible to the largest amount of people, so...and I still have unanswered kind of our liability concerns, but one way or the other, I think we want to bring this to a conclusion today from the county's point. That doesn't mean there aren't many issues with the state and as I said earlier, I trust that there's a win-win solution for people on Kaua'i.

Chair Asing: Thank you. Councilmember Kawahara.

Ms. Kawahara: Just to take the last couple minutes that I have. So what I'm...before we go into recess, I want to say what it would look like for this...what this motion would look like. It would be asking to remove the reference to and description of A-1, to retain the reference to and description of A-2, and to amend the Grant of Pedestrian Access Easement to redescribe only easement A-2 and to transmit that to the council for approval.

Chair Asing: Thank you. With that, before we take the...you want to take a short recess and confer with the county attorney? Let me give you my view. My view is that we have a corporation here that is generously giving up land to us, generously giving up land for us. Why wouldn't we accept it if it's a good or even better trail than we have now? I walked the trail. I think at the last meeting I told you that. I walked the trail with my granddaughter who is almost four years old and we didn't have a problem walking down that trail, the trail that Wai'oli Corporation is giving us. I also looked at the trail again and I did walk that trail before, I'm talking about the existing trail. The existing trail is bad. I mean, it's...nobody here can honestly tell me that it's a safer trail. I'm going to use the word safer. Nobody here in the audience can tell me that the existing trail is safer and we should just keep it. So, it's almost insane that we're not accepting a trail that is safer than a trail that is considered, in my opinion, dangerous at this point and I would agree with David Sproat that we accept one and as far as I'm concerned the other existing trail should be closed. And we should have only one trail. So, I'll be supporting the move to accept the gift of the trail from the Wai'oli Corporation and I will agree with Councilmember Furfaro that this should not end. We will put another item on the agenda to follow up on the other issues that are before all of us. So, that's what I will be supporting.

So with that, we're going to take a caption break now and then you can have your discussion, Councilmember Bynum, with the county attorney.

There being no objection, the meeting was recessed at 10:28 a.m.

The meeting was called back to order at 10:45 a.m., and proceeded as follows:

Chair Asing: The meeting is now called to order. With that, Councilmember Bynum, did you have a chance to confer with the county attorney.

Mr. Bynum: Yes, I did, thank you for that opportunity. How do I say the... I wish the county would have kept their easement clear and passable all of these years. I think what somebody said here is probably likely how that occurs is, you know, it's natural. A...I want to go fish, you know, I want to collect, you go straight down and over time, the county trail, you know, fell into disrepair. I think it's important that the county fulfill its responsibility to keep that trail open. And anything we do here increases the county's liability to some extent but access to the coastline is so important that we need to accept some liability and that's true here and it's true everywhere that we allow access to the coastline. And so, I'm going to support accepting this today, having both trails open and I think it's important though that the county keep the trail, as I said earlier, so access to the coastline is available to the largest amount of users. I think the compromise that Lani's suggesting is one way we could go, but I don't see it in the cards. So I'm going to accept and agree with my colleagues to accept this. But I also am going to strongly encourage the administration to keep the trail that we own fee simple, you know, maintained and passable as well, so.

Chair Asing: Okay, with that, Lani.

Ms. Kawahara: It sounds like this isn't going to pass, but I am going to want to make a motion. But in response to what was just said, I more strongly believe that the county had a responsibility to maintain the trail. That trail was...that property was given to us too by Wai'oli in the first place. It was incredibly generous that they're giving us a second chance, but they gave us the first chance and we didn't use it, and now we're going to say we're not going to use it at all, close it off? To me that's irresponsible. It totally goes against the fact that we were supposed to maintain it in the first place, that we didn't, and now that

there's another trail does not release the county from the fact that they didn't maintain the trail that is to me the better trail. To say you're going to close off or not use one trail that we bought...which the...that we were given by Wai'oli and then to take more land from Wai'oli seems to me inconceivable. That they're offering it is again incredibly generous considering what they gave us the first time. So again, to turn our head and say, oh, we didn't maintain it the first time, so cool, they're going to give us a second chance and let's take the second one, to me no, that's relinquishing our responsibility. Again, if we just take this little portion of A-2, that is just a little bit more land that we're getting from Wai'oli in addition to what they gave us in the first place. What they're offering to do is give us even more of their land, which is again incredibly generous.

I have concerns about the burials that are near the trail that people are using right now. And I do believe that we had...we have planning here, so I might have them up.

But to me it seems like what we're asking for is a redundant trail, an additional give to the county from a landowner when they already gave us something earlier. So to say that you're going to just shut off the trail that they gave us is to just ignore the land they gave us in the first place and to not acknowledge the fact or you can acknowledge the fact that we didn't maintain it, but saying, okay, we didn't maintain it, so we didn't take care of what our duties were, so Wai'oli has to give us some more.

I will be...I guess I want to make the motion now because I think we want to move on. So I would like to make a motion to refer this Grant of Pedestrian Access Easement back to the administration to amend the grant with the specifics here as to remove reference to and description of Easement A-1, to retain the reference to and description of Easement A-2, and to amend the Grant of Pedestrian Access Easement to redescribe only Easement A-2 and to transmit the amended Grant to the council for approval.

Chair Asing: Is there a second?

Mr. Bynum: I will...for discussion purposes, I'll second that.

Ms. Kawahara moved to refer C 2010-174 back to the administration to amend the grant to remove the reference to and description of Easement A-1, to retain the reference to and description of Easement A-2, and to amend the Grant of Pedestrian Access Easement to redescribe only Easement A-2, and to transmit the amended Grant to the council for approval, seconded by Mr. Bynum.

Chair Asing: Go ahead, Councilmember Kawakami.

Mr. Kawakami: Thank you. And you know, the offer from Wai'oli Corp., shall we take it today, doesn't eliminate that option from happening in the future. Now there's a saying in business to never leave money on the table. And with this proposal what we're doing is walking away and leaving a whole bunch of money on the table. What I mean is they're offering us a new easement and we'd still own the existing one. So there's nothing to stop us later on in the future should we decide to do exactly what she's looking to do. But what the proposal does is it eliminates another option. So I won't be supporting it because like I said, never leave money on the table. They're offering us an option. I say we take it. We take the one with more options. We take the one more land. Thank you.

Chair Asing: Thank you, any further discussion?  
Councilmember Bynum.

Mr. Bynum: I seconded the motion so we could have this discussion and so I just want to say a little bit more about liability issues. As I said just a minute ago, whenever the county has access, we have liability. When we increase the access, to some extent we increase the liability, but it's a policy call that I think all of the councilmembers would agree we're not going to shut off access because of those liability concerns, that the public benefit from having access is much greater than the exposure that the county has. By having two things, my concern and this is...I'm kind of putting a plug into the administration to maintain both of these, if we allow the steeper access and don't allow an access that is more...that is mapped out by a professional map person is gradual, I'm afraid someone could get hurt on that access and say, county, you precluded me from using this land that you owned, that was mapped out by a professional, that a more gradual descent, you know, and so I'm not going to support Councilmember Kawahara's motion. I think it's well intended, but I think we need to accept both the easements and for my sake, I'm going to strongly encourage the administration to make both of them accessible to avoid...and to make that other trail that was mapped out professionally available for people who need that gradual descent and so the access is amenable to the greatest amount of people. So, my preference would be (1) I agree with Mr. Sproat and the Chair, but I think if we eliminate the one that has gradual descent, we actually will increase our potential liability and we will preclude some members of the public from getting down there easily, perhaps me when I'm 15 years older because I'm still going to want to go there, so I'm not going to support the amendment.

Chair Asing: Okay, thank you. Councilmember Kawahara.

Ms. Kawahara: So, just to be clear we're going to be voting on this to either...to accept one that's steeper, that hasn't been designed by a professional trail maker and also in the face of the fact that we own the property of the current...the trail that we actually own and have liability for, we're increasing our liability twice by adding another one, we're also taking more land from the landowner, and I see no way that that gives incentive to our administration. I applaud Councilmember Bynum by saying he's going to strongly encourage the administration to look at and maintain the other...our trail, our own trail. But to me, being...I would rather be responsible and say we maintain the one we already have. I don't need to give you more incentive because there is no other trail. The trail we own now is the trail. What we add to it could be the bottom of A-2 which Wai'oli has offered. Again, we are...by voting yes on this we're voting to increase our liability, add a second trail that is steeper, taking more land from the landowner, running up against possible burial grounds, increasing our liability when from the 1970s, when they gave us this land, we should have been maintaining it. So, however, it may go, please.

Chair Asing: Thank you, any further discussion? If not, all those in favor, say aye.

Ms. Kawahara: Aye.

Chair Asing: Opposed say no.

Mr. Bynum, Mr. Chang, Mr. Kaneshiro, Mr. Kawakami, Chair Asing: No.

Chair Asing: The noes have it.

The motion to refer C 2010-174 back to the administration to amend the grant to remove the reference to and description of Easement A-1, to retain the reference to and description of Easement A-2, and to amend the Grant of Pedestrian Access Easement to redescribe only Easement A-2, and to transmit the amended Grant to the council for approval was then put, and failed passage by a vote of 1-5-1 (Councilmembers Bynum, Chang, Kaneshiro, Kawakami and Chair Asing voting no and Vice Chair Furfaro excused and not voting).

Chair Asing: With that, Councilmember Chang.

Mr. Chang: I'd like to make a motion to approve.

Mr. Kaneshiro: I second the motion, the main motion.

Mr. Chang moved to approve C 2010-174, seconded by Mr. Kaneshiro.

Chair Asing: Thank you, any discussion? Councilmember Bynum.

Mr. Bynum: I appreciate everybody's patience with this issue. As I said earlier I really see a roomful of people that I have deep respect for that have currently some differences of opinion. I think that the two groups have come closer together and I hope that that dialogue continues and...because when I look at the situation, there's been a lot of claims and stuff and mostly it's all true. People came...people were abusing this area. People were camping and trashing and it was awful, and those people acted irresponsibly. The county and the state had a responsibility to address those concerns when they came up and in my opinion, the county and the state failed to do that and let this situation escalate. And you know, people came...became very concerned that the 'āina was being abused and that the Wai'oli Corporation is a unique and important steward of several pieces of land on this island. They're not people who are looking to develop this and they were very patient as they didn't get assistance and they can correct me if I'm wrong when these abuses were occurring. And so I think to try to maintain their property in a way that's appropriate is a noble gesture. I also believe, however, that it's very much in the public's best interest to maintain an Ala Loa historic trail, a lateral trail. It's clear from the documents that the state was making efforts to do that and will con...hopefully continue to make efforts to do that and I hope there is a compromise. But that really is the state's responsibility to work out with the landowner in the community. The county's responsibility is to fulfill the access, which we are doing today, and I've already said I strongly encourage the administration to maintain both the trails so the largest number of people can access that. And I really strongly encourage the community members here to continue to dialogue to find a win-win situation for the outstanding issues. Thank you.

Chair Asing: Thank you, any further discussion?  
Councilmember Kawahara.

Ms. Kawahara: Since this is the final vote, I have been considering how I'm going to vote given that that didn't go and I still have concerns. So I won't be able to support the vote to accept the Grant of Easement from Wai'oli, but I do want to thank Wai'oli and I think it's going to go through today. But I do want to thank you because I want to also acknowledge that you gave us land already and you're giving us land again in order to do this. Again, in voting yes for this, we're going to voluntarily increase our liability, taking more land from the landowner, have...but up against the factor might be burial concerns and also turning our face away from the fact that we didn't maintain what we owned already since the 1970s.

I really believe that the county has a commitment and a duty to provide access to the trail that it actually already owns, the trail that was already planned out and just fell into disrepair. I think this is one case where the council can actually do more than strongly encourage the administration to go back and maintain that trail. By voting no on that, my hope would be that that would say to them that look, we have this trail ready. I don't want to take more land from the owner. What we have now is what we have. It was planned and it was done by Mr. Daylor (?), it has cutbacks, it's more gradual, and it's not as steep. Maintain that one. Do not add another one that is steeper, that is not well planned.

Chair Asing: Thank you. Councilmember Kawakami.

Mr. Kawakami: You know one of the main reasons why I decided to run was to try to increase access to our coastlines, and by voting yes, that's exactly what I'm doing. We're increasing access. That's what the people have asked for. A lot of places have been gated up and here we have an opportunity to take an access and I'm going to take that access because that's what our people have wanted. By voting yes, we voting yes to increase access to what the fishermen want, the fishermen like Mr. Iida who goes down there four times a week that have been using that access. So on the flip end, I'm voting yes to increase access. I think that's what we're all here for. Thank you.

Chair Asing: Thank you, any further discussion?  
Councilmember Chang.

Mr. Chang: Thank you, Chair, and yes, I will also and I'm sure all of us will hold the administration and ask them to please maintain and we want to maintain, but the excursion and the field trip that I did out there recently, Mr. Bruce Laymon said if you folks need any help, we, the private sector, would like to work with the county and the administration and I just reaffirmed that this morning that he said if we can help legally and lawfully to help and to maintain, we will be out there in full force to clean the place, to maintain the place, do what's right and you know, the members of our community also to get involved with all of that. So, yes, it is about access and you know I believe, like I said earlier, we can have that path, obviously we wish we had one, but we can have that path, but everybody wants that shortcut situation anyway because as I mentioned earlier, it is a very...in my opinion a very easy, accessible path that I mentioned anybody in this room can do. So thank you very much. I am going to, again, be supporting this. Thank you, Chair.

Chair Asing: Thank you, any further discussion? If not, I'll be supporting this. For me the choice is which is the safer of the two and that's the bottom line. And the bottom line, to me, is we are given the opportunity to get additional land for access that is safer. Why shouldn't we take that opportunity and that's the reason I am going to vote to support this. With that, all those in favor, say aye.

Councilmembers: Aye.

Chair Asing: Opposed, say no.

Ms. Kawahara: No.

Chair Asing: Motion carried, thank you.

The motion to approve C 2010-174 was then put, and carried by a vote of 5-1-1 (Councilmember Kawahara voting no and Vice Chair Furfaro excused and not voting).

Chair Asing:

Next item please.

Mr. Nakamura: Council Chair, we're back on page 1 of the council's agenda on matters for receipt, Communications C 2010-222, C 2010-223 and C 2010-224.

COMMUNICATIONS:

C 2010-222 Communication (07/19/2010) from the Director of Planning, transmitting the Planning Commission's recommendations to amend Chapter 8 of the Kaua'i County Code, as amended, relating to the shoreline setbacks: Mr. Kaneshiro moved to receive C 2010-222 for the record, seconded by Mr. Bynum, and unanimously carried.

C 2010-223 Communication (07/21/2010) from the Purchasing Division, Department of Finance, transmitting for Council information, the Fiscal Year 2009-2010 Fourth Quarter Statement of Equipment Purchases: Mr. Kaneshiro moved to receive C 2010-223 for the record, seconded by Mr. Bynum, and unanimously carried.

C 2010-224 Communication (07/23/2010) from the Director of Finance, transmitting for Council information, the Period 12 Financial Reports – Statement of Revenues as of June 30, 2010, pursuant to Section 17 and Section 20 of the Operating Budget Ordinance (B-2009-690): Mr. Kaneshiro moved to receive C 2010-224 for the record, seconded by Mr. Bynum, and unanimously carried.

Chair Asing:

Next item please.

Mr. Nakamura: On...excuse me, Council Chair, on page 2 matters for receipt, communications C 2010-225, C 2010-226, C 2010-227, C 2010-228, C 2010-229 and C 2010-230.

C 2010-225 Communication (08/11/2010) from Councilmember Derek S. K. Kawakami, providing written disclosure of a possible conflict of interest relating to the confirmation of liquor commissioners due to his family's business interests and recusing himself from discussing or participating in any decision making on the confirmation of liquor commissioners: Mr. Kaneshiro moved to receive C 2010-225 for the record, seconded by Mr. Chang, and unanimously carried.

C 2010-226 Communication (08/11/2010) from the County Auditor, transmitting for Council information the engagement of consultant services by the Office of the County Auditor to conduct up to three performance audits and pre-audits of the County's programs to reduce wages, starting with the partial hiring freeze and furlough programs, at an estimated cost of \$70,000.00 which will be funded via FY 2010-2011 Office of the County Auditor's Consultant Services: Mr. Kaneshiro moved to receive C 2010-226 for the record, seconded by Mr. Chang, and unanimously carried.

C 2010-227 Communication (08/13/2010) from the Director of Finance and the Accounting Systems Administrator, transmitting the annual certified physical inventory reports for the fiscal year ending June 30, 2010: Mr. Kaneshiro moved to receive C 2010-227 for the record, seconded by Mr. Chang and unanimously carried.

C 2010-228 Communication (08/13/2010) from Councilmember Tim Bynum, requesting Council consideration of an amendment to Chapter 8, Comprehensive Zoning Ordinance, to limit the density for lots in the Agriculture District resulting from subdivisions approved after the effective date of this ordinance to one house, for the purpose of establishing the premise that development on agricultural lands should be for agricultural purposes: Mr. Kaneshiro moved to receive C 2010-228 for the record, seconded by Mr. Chang, and unanimously carried.

C 2010-229 Communication (08/13/2010) from Councilmember Tim Bynum, requesting Council consideration of an amendment to Chapter 8, Comprehensive Zoning Ordinance, by requiring that a Class IV zoning permit be obtained in order to subdivide land in the State Land Use Agricultural District, and an amendment to Chapter 9, relating to the subdivision of land, by requiring the applicant to obtain a finding from the Planning Commission that the proposed subdivision's agricultural and master plan meets criteria designed to ensure that the subdivision will be used for agricultural purposes: Mr. Kaneshiro moved to receive C 2010-229 for the record, seconded by Mr. Chang, and unanimously carried.

C 2010-230 Communication (08/13/2010) from Councilmember Tim Bynum, requesting Council consideration of an amendment to Chapter 8, Comprehensive Zoning Ordinance, to limit the building envelopes for dwelling units built in Agriculture and Open Districts to 2,500 square feet and require a use permit for building envelopes in excess of 2,500 square feet, for the purpose of establishing the premise that development on agricultural lands should be for agricultural purposes: Mr. Kaneshiro moved to receive C 2010-230 for the record, seconded by Mr. Chang, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Council Chair, on the top of page 3, a communication for receipt, communication C 2010-231.

C 2010-231 Communication (08/16/2010) from Councilmember Derek S. K. Kawakami, Hawai'i State Association of Counties (HSAC) President, requesting that the Council submit legislative proposals to be considered and included in the 2011 Hawai'i State Association of Counties Legislative Package by September 2, 2010: Mr. Chang moved to receive C 2010-231 for the record, seconded by Ms. Kawahara.

Chair Asing: Thank you, any discussion? Yes, Councilmember Kawakami.

Mr. Kawakami: Thank you, Mr. Chairman, and once again we are at the beginning of our new legislative session. So this is a communication for councilmembers to submit any proposals, but keep in mind that our main mission once again is the preservation of our TAT tax. So please keep that in mind so that we can remain focused as we try to navigate that legislation. Another thing that you might want to consider is that we are advocates for home rule. So, we're looking for proposals that would increase the county's home rule authority, and I appreciate any submittals coming in. There is a calendar that you guys can work off of. So have fun with it and just keep those things in mind so that we're not chasing thousands of bills up there because we do have some other bills. For example, the kind of home rule things we were fighting for last legislative session were to include a county representative to the EUTF Board and that one did not fly. Another one that we were pushing for is to have a county representative on the ERS and that one did not fly either, but first and foremost, we're trying to save that \$12 million for the County of Kaua'i, okay. Thank you

Chair Asing:

Thank you. With that, Councilmember Bynum.

Mr. Bynum: Yeah, I want to thank Councilmember Kawakami for his leadership in HSAC, the Hawai'i State Association of Counties, and informing the council way in advance about our opportunities to have input to that. It's been a whirlwind year. I don't have any proposals prepared to come up, but I did have a couple questions, if I may? I assume the EUTF and the ERS will be back in the legislative package again and one of the things that I know has been in the HSAC package many times and I would encourage we keep it there and maybe someday we'll get some traction is a portion of the fines, you know, traffic fines that are paid and I wanted to mention that because I've seen it in the press in the letters to the editor recently people saying, oh, the county's doing this because they want to increase their revenues. And so I want to take this opportunity to let the public know that when our...when Kaua'i's finest write you a traffic ticket, the county gets zero dollars. We get no portion of that. And the HSAC package for many years, I believe, has said at least give us a portion of the uncontested traffic fines because it is our police who write the tickets, who do this. If it doesn't even go to the court and all the court is doing is administratively collecting a fee, shouldn't the county get a portion of that? So I hope, Mr. Kawakami, that that's again included in our package and thank you for your leadership on this issue.

Mr. Kawakami: Thank you. I mean that's exactly right the way you explained it, so we can include that.

Chair Asing:

Thank you. Councilmember Kawahara.

Ms. Kawahara: Thank you. Thank you, Chair, I also want to thank Councilmember Kawakami. He's doing an excellent job in giving the council a heads-up as the HSAC President to be sure that we're going to have any kind of legislative items that we're interested to introduce this year with HSAC. So I appreciate Councilmember Kawakami's work on this and the...that ha...he's getting really good at it. And thank you again for being able to give us a real good heads-up.

Chair Asing:  
suspended. Glenn.

Thank you, any further discussion? The rules are

There being no objection, the rules were suspended.

GLENN MICKENS: Thank you again, Kaipo, for the record Glenn Mickens. I just want to find out from Derek, what does the public have to do? I completely agree with what Tim's saying. Why don't we get at least a portion of that money? Why should it all go to there? But what can the public do to back you to do it? What legislature...is it the total legislature that makes that decision or what, Derek?

Mr. Kawakami: You know, the state legislature works at the speed of light, much faster than we do because we are obligated to operate within the parameters of the sunshine law. And so because of that you guys have due notice of what's up on the agenda and a lot of times things will pop up at the state legislature. I guess one of the things that we could try to do is inform you when these things come up for a hearing, but oftentimes I'm getting noticed 24 hours, 48 hours in advance. So you drop what you're doing, you fly up and you go up there and you push for the bills that you're tracking. But being that we are operating within the Sunshine Law, everything that we pass is public record. So that means that it's going to ultimately come to our table and it has to be passed unanimously

by all counties for it to be included. So you will have due notice as to what bills we're pushing for and so if you want to testify, you can craft testimony, you can submit it to our staff, and when that bill comes up for a hearing, you know, I think we can submit it in this part of our package too.

Mr. Mickens: Well then it would be...really be helpful if, as you pointed out, you could prewarn the public when this is going to be able to come up so, you know, you can be able to get your testimony in or whatever to support you.

Mr. Kawakami: Yeah, okay.

Mr. Mickens: So, anyway, thank you for your...what you're doing, okay, Derek.

Mr. Kawakami: Thank you.

Mr. Mickens: Thank you.

Chair Asing: Thank you. I call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: We have a motion on the floor and a second. All those in favor, say aye.

Councilmembers: Aye.

Chair Asing: Opposed say no. Motion carried.

The motion to receive C 2010-231 for the record was then put, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: On page 3 of the council's agenda, next item for approval is communication C 2010-232.

C 2010-232 Communication (07/21/2010) from the Director of Housing, requesting Council approval to decline the County's repurchase right to buy back Unit No. 708, Hookena at Puhi, located in Puhi at 2080 Manawalea Street, Lihu'e Hawai'i 96766 and for the Housing Agency to issue the owners a one-year waiver of the County's repurchase right effective the date of the Council's decision, thus permitting the owner to sell the unit on the open market for a period of one year: Mr. Chang moved to approve C 2010-232, seconded by Mr. Kaneshiro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matter for approval is communication C 2010-233.

C 2010-233 Communication (07/30/2010) from the Director of Parks and Recreation, requesting Council approval to accept a gift of \$4,000.00 from the Florence Iwamoto Kaua'i Fund through the Hawai'i Community Foundation, to be used specifically for the Lihu'e Senior Center to support inter-generational

programs and for the purchase of equipment: Ms. Kawahara moved to approve C 2010-233 with a thank-you letter, seconded by Mr. Kaneshiro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matter for approval is communication C 2010-234.

C 2010-234 Communication (08/16/2010) from the Fire Chief, requesting Council approval to accept the donation of a Rescue Board (retail value \$1,300.00) and a Rescue Sled (retail value \$1,100.00) from the Kaua'i Visitors Bureau: Mr. Chang moved to approve C 2010-234 with a follow-up thank-you letter, seconded by Mr. Kaneshiro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matter for approval is communication C 2010-235.

C 2010-235 Communication (08/19/2010) from the Director of the Office of Economic Development, requesting Council approval to apply for, receive and expend funds from the U.S. Department of Agriculture Rural Development's High Energy Cost Grant Program for approximately \$1.4 million: Ms. Kawahara moved to approve C 2010-235, seconded by Mr. Kaneshiro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matter is a Claim, claim C 2010-236.

#### CLAIM:

C 2010-236 Communication (08/16/2010) from the County Clerk, transmitting a claim filed against the County of Kaua'i by Nancy Grover for damage to her vehicle, pursuant to Section 23.06, Charter of the County of Kaua'i: Mr. Kaneshiro moved to refer C 2010-236 to the County Attorney's Office for disposition and/or report back to the Council, seconded by Mr. Chang, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matters on page 4 are Committee Reports for approval from your Committee on Budget & Finance, committee report CR-B&F 2010-20.

#### BUDGET & FINANCE COMMITTEE

A report (No. CR-B&F 2010-20) submitted by the Budget & Finance Committee, recommending that the following be approved on second and final reading:

"Bill No. 2368 – A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2010-705, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF

HAWAII, FOR THE FISCAL YEAR JULY 1, 2010 THROUGH JUNE 30, 2011, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND,"

Mr. Kaneshiro moved for approval of the report, seconded by Mr. Chang, and unanimously carried. (*See later for Bill No. 2368*)

Chair Asing: Next item please.

Mr. Nakamura: From your Committee on Economic Development/Housing, committee report CR-EDH 2010-02.

ECONOMIC DEVELOPMENT/HOUSING COMMITTEE

A report (No. CR-EDH 2010-02) submitted by the Economic Development/Housing Committee, recommending that the following be received for the record:

"EDH 2010-2 Communication (8/12/2010) from EDH Committee Chair Dickie Chang, requesting the presence of Bob Craver, Director of the Kaua'i Marathon to provide an update on the 2010 Kaua'i Marathon,"

Mr. Chang moved for approval of the report, seconded by Mr. Kaneshiro, and unanimously carried.

Chair Asing: Next item please.

Mr. Nakamura: Next matters are Bills for First Reading. First bill for first reading is Proposed Draft Bill (No. 2376).

BILLS FOR FIRST READING:

Proposed Draft Bill (No. 2376) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8, KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE

Chair Asing: What I'd like to do is call the county attorney up and I'd like for you to read three...the three bills. My apologies. With that I'm going to suspend the rules.

There being no objection, the rules were suspended.

CAREN DIAMOND: Aloha, Council, Caren Diamond for the record. You know, a previous council was smart enough to fund three years of coastal erosion studies, which is one of the best things that this county has ever done. I'm certainly confused about this bill that...the changes to this bill that are before you because it doesn't exactly implement the coastal erosion study that has been completed. And I want to first ask if you would schedule a workshop for this, the ordinance 863 was really well thought out. It had a lot of expertise put in it from a lot of experts. And I don't think the changes that you have here before you have been thought out at all. And so I would ask you to hold a workshop, invite Dr. Fletcher, invite Dennis Wong, invite...because we don't have a Sea Grant Agent here, Dolan Eversole or somebody from Sea Grant.

(Inaudible.)

Ms. Diamond: So once before you not very long ago, the applicability section had tried to be gutted from this bill and it didn't pass that time. So once again, the applicability section is here being...asking you to actually gut it. And so as the...as the law stands now, this...our setback ordinance is applicable to all lands that abut the shoreline. But you're asked to change it and you're asked to allow the director...actually to waive shorelines is what it is. And go ahead and use a seaward property boundary instead of a certified shoreline. And if the director decides that the seaward boundary...that the proposed...you know, what they're asking for is further than what the setback would be, then they can skip this whole thing. And I'll give you an example of how that worked. In Hanalei, the Hodges piece, originally the director waived the shoreline for it because the applicant had come asking for a 60-foot setback and only a 40-foot setback was required. And so the director said, okay, never mind, no shoreline certification required. And they were going to issue building permits and approve that development. So every time you skip the certified shoreline, you're dissing the public's trust and the lands that...the ability to actually decide what lands are still in public use and which lands become privatized. And once we're talking about development, when they privatize it that happens forever. And the whole coastal zone management is all predicated on having a certified shoreline, not on somebody saying, my setback is going to be 20 feet further than what the setback requirement would be and therefore skip that line. And so, I don't actually think it's...probably does not comply with HRS 205 and the seaward property boundary was never what was used. It always is the certified shoreline that is used because seaward property boundaries move inland and change.

The second thing that's most upsetting on this bill is page...sorry, page 7, where all of a sudden the building footprint comes into play. So if the building footprint is bigger and you can't get exactly the house that you want to be in some given piece of property, then you can use the table instead and skip the whole coastal erosion process completely. Now the reason that we...this county had gone down the road of doing coastal erosion rates is because it takes the political out of shoreline setbacks. It adds science to it. It gives you a scientific reason to establish a setback based on science. What this bill does is add politics back in, takes the science back out. And if you have...on page 8, if that building footprint doesn't fit, if your lot depth is more than 200 feet, the most you ever have to set your property back is 100 feet. So, that just skips the erosion completely. Why do three years of erosion studies if you're going to gut the erosion aspect from the bill when you're done.

Ms. Kawahara: What page was that?

Mr. Chang: 8.

Ms. Kawahara: 8, bottom?

Mr. Chang: Top.

Ms. Kawahara: Top.

Ms. Diamond: You see that's the table.

Ms. Kawahara: Yeah, there's a table on the top and the bottom.

Mr. Chang: The one on the top.

Ms. Kawahara: The one that they're taking out, okay.

Ms. Diamond: So on page 9 at the top maybe is the one they're putting in.

Ms. Kawahara: Okay.

Ms. Diamond: What's kind of interesting about that is the state recently has this rule change that they're going through for conservation district rules and they copied Kaua'i's table. But when they copied it, they kept out that "more than 200 feet" and they crossed out that "more than" because that never was supposed to be. And originally the table was put in because a coastal erosion study is quite expensive to do. It could cost thousands of dollars. And he was trying to make it easier for the landowners who were going to be required to do this coastal erosion study instead to use a table. But now they're saying, well, if the building footprint doesn't really fit, then you can use this table. If you can't get the large sized structure that you want, then use this table completely taking out the erosion rates and the whole necessity and reason for having it. So, again I'd ask you to please invite Dr. Fletcher, invite Dennis Wong, invite experts here to help you with this bill. Kaua'i had one of the best shoreline setback bills in the country. It's been a model ordinance and it's about to be gutted quite poorly. So, I'd ask you to have a workshop. Thank you.

Chair Asing: Councilmember Bynum.

Mr. Bynum: Caren, the bills here for first reading, it came from the planning commission. Whether we hold a workshop or not would really...you know, we would talk to our planning chair who is not here, but whether he does or not, I totally agree with you that Chip Fletcher and Dennis Wong need to be part of this discussion. I already talked with Dennis Wong once and you know...and I've told planning that because the initial word I got is this is to implement the UH Shoreline Study. If there are other elements of this, we'll have to do the due diligence and what Dr. Fletcher and Dennis Wong and the input we get from Sea Grant will be key as it was for me when we passed 863 and I supported the science basis, if you recall. And so, you know, their testimony, because they're the experts and Dennis Wong has trained on our shoreline bill all over the country and we are recognized around the country as having a progressive shoreline setback and (inaudible) science based and you know speaking for myself, I don't want to change from that. So, if a workshop's appropriate, we can let our planning chair decide, but we definitely will have a public hearing that we're setting today and we will also, you know, have those individuals involved in the discussion.

Ms. Diamond: Thank you.

Chair Asing: Thank you, any further discussion?

Mr. Kaneshiro: I have a question for Caren.

Chair Asing: Yes, go ahead.

Mr. Kaneshiro: On the...on your first comment, you know, I'm looking at section (a) and to me section (a) makes sense based on the fact that if you don't put this in now...I mean with a person having a one-thousand acre parcel, he has an improvement going on four miles up the road, the way this bill currently reads, this applies to him.

Ms. Diamond: No, there were things put in the bill that the director could...

Mr. Kaneshiro: Well, this is where it's at because if you look at it...

Ms. Diamond: This second sentence doesn't need to be in there for that.

Mr. Kaneshiro: If you look at this, it says abutting, it's abutting the shoreline. So I have a thousand-acre parcel abutting the shoreline. I'm going to build something three miles away up on the hill, this bill, the way it currently reads with all these changes applies to that.

Ms. Diamond: There's the Shoreline Setback Determination Form that actually once they fill that Shoreline Setback Determination Form out, they would...the department would be able to see that that three-mile improvement...

Mr. Kaneshiro: But that's not how the bill reads currently.

Ms. Diamond: You know if...

Mr. Kaneshiro: This is the changes, I'm saying, that needs to be made to take care of that issue.

Ms. Diamond: I think they've gone broader than you need to go for that.

Mr. Kaneshiro: I'm not certain because I read the second part of it and it says, the distance of the proposed...or if you look at section (b) not abutting the shoreline but located within 500 feet of the shoreline. So if you don't have anything abutting the shoreline, but you have a property 500 feet away, then this would apply to it. You see what I'm saying? So, you know...

Ms. Diamond: You know, the reason for that was because some properties were right across the street from the ocean and so you would have the beach and I'm speaking of like maybe Kekuhi Point area...

Mr. Kaneshiro: Yeah, okay.

Ms. Diamond: ...where you have really narrow parcels that have no buildability at all and you have a street...

Mr. Kaneshiro: Okay.

Ms. Diamond: ...and then you have the parcel start.

Mr. Kaneshiro: Okay.

Ms. Diamond: But the ocean actually washes across the street...

Mr. Kaneshiro: Yeah, I'm not disagreeing...

Ms. Diamond: ...and a setback is adequate and you would want to do a...find out that.

Mr. Kaneshiro: I'm not disagreeing with that. But what I'm disagreeing with is that you have a property that abuts the beach and yet the improvements is four miles away from the beach, this bill, the way it's written today, applies to that project. That's the problem.

Ms. Diamond: I can show you in paper how that is not true. So I'll bring you back the...

Mr. Kaneshiro: Well, I can tell you the reason why these changes are here because we've had some properties that ran into this situation. It's not just put in here because this was thought later. The problem is we've had some properties come in to do some improvement which is over three or four miles away and had to go through this bill the way it's written, do an erosion study, doing all of that. So, you know, I want to...you know, I think that maybe as this goes through committee we'll have more dialogue on this so, you know, the understanding is there was some flaws in the bill and this is one way of making the corrections. I don't want to get too much into this. I know it's the first reading, but, you know, I took your first comment that you made. (Inaudible.)

Chair Asing: Thank you, any other questions for Caren? If not, Caren, thank you very much.

Ms. Diamond: Thank you.

Ms. Kawahara: Thank you, Caren.

Chair Asing: I'd like to call the meeting back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: Can I have a motion? We do not have a motion at the present time.

Mr. Kaneshiro: The motion will be to approve this on first reading and schedule public hearing on October 13, 2010 and refer this to the Planning Committee.

Mr. Bynum: Second.

Mr. Kaneshiro moved for passage of Proposed Draft Bill (No. 2376) on first reading, that it be ordered to print, that a public hearing thereon be scheduled for October 13, 2010, and that it thereafter be referred to the Planning Committee, seconded by Mr. Bynum, and carried by the following vote:

FOR PASSAGE:	Bynum, Chang, Kaneshiro, Kawahara Kawakami, Asing	TOTAL - 6,
AGAINST PASSAGE:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Furfaro	TOTAL - 1.

Chair Asing: Can we read the next three bills please?

Mr. Nakamura: Next bills for first reading are Proposed Draft Bill (No. 2377), Proposed Draft Bill (No. 2378), and Proposed Draft Bill (No. 2379).

Proposed Draft Bill (No. 2377) - A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (DENSITY IN THE AGRICULTURE DISTRICT)

Proposed Draft Bill (No. 2378) – A BILL FOR AN ORDINANCE TO AMEND CHAPTERS 8 AND 9 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE SUBDIVISION OF AGRICULTURAL LAND

Proposed Draft Bill (No. 2379) – A BILL FOR AN ORDINANCE TO AMEND CHAPTER 8 OF THE KAUAI COUNTY CODE 1987, AS AMENDED, RELATING TO THE COMPREHENSIVE ZONING ORDINANCE (BUILDING ENVELOPES IN THE AGRICULTURE AND OPEN DISTRICTS)

Chair Asing: Thank you. Can we have the county attorney up, please.

There being no objection, the rules were suspended.

ALFRED B. CASTILLO, JR., County Attorney: Good morning, Council Chair, Councilmembers, Al Castillo, County Attorney.

Chair Asing: Good morning, County Attorney. The question is do you have some legal concerns with these bills?

Mr. Castillo: For all of the three bills that were read previous to my taking this chair, we do have constitutional questions, implementation questions, and legal mechanic questions. So the answer to that is yes.

Chair Asing: Thank you.

Ms. Kawahara: County Attorney?

Chair Asing: Go ahead.

Ms. Kawahara: Though you have concerns and stuff on...though you have concerns about these things, but does that mean that we shouldn't be listening to them at all? That they shouldn't get through first reading or do we consult with you also as we get to public hearings?

Mr. Castillo: To me that's a policy question. It's not a legal question.

Ms. Kawahara: That would be a policy question, you think?

Mr. Castillo: Yeah, my...yes and I would hesitate to give you all the legal reasonings in open at this point in time.

Ms. Kawahara: Right.

Mr. Castillo: That would not be...

Ms. Kawahara: Okay.

Mr. Castillo: ...right.

Ms. Kawahara: So, but I'm hearing that you think it's a policy based decision whether or not they have...they get to go pass through first reading.

Mr. Castillo: I mean this is for your...for this legislative body to decide. But the question was do I have legal concerns for all of the three bills. The answer to that has to be yes.

Ms. Kawahara: Okay. Have you ever had legal concerns about other bills that have gone through first reading as the county attorney's office.

Mr. Castillo: Have I ever had?

Ms. Kawahara: Yeah, ever?

Mr. Castillo: Yes.

Ms. Kawahara: Okay, thank you.

Chair Asing: Thank you, any other questions? If not, thank you very much. I'd like to call the meeting back to order and Councilmember Bynum.

The meeting was called back to order, and proceeded as follows:

Mr. Bynum: As related to Proposed Draft Bill No. (2376) move to refer to the planning commission.

Mr. Kaneshiro: 2376? We already took 2376.

Mr. Bynum: I'm sorry, 2377.

Ms. Kawahara: Second.

Mr. Bynum moved to refer Proposed Draft Bill No. (2377) to the Planning Commission, seconded by Ms. Kawahara.

Chair Asing: Any discussion?

Ms. Kawahara: Yes.

Chair Asing: Go ahead.

Ms. Kawahara: So in moving to...what was it? To the planning commission? Okay, so when we generally send something to the planning commission, that gets reviewed by the planning commission, by the planning department, and county attorney. Is that correct? In general, that's been the tradition, Council Chair, do you know?

Chair Asing: Okay, any other discussion? If not? Any discussion...

Ms. Kawahara: That was a question, but I guess he didn't want to answer it.

Chair Asing: ...councilmembers?

Mr. Chang: I'm sorry I think she had a question for you?

Chair Asing: What was the question?

Ms. Kawahara: Do you know since you've been here...you've been here awhile, do you know in general when we send something to the planning commission and the planning department, do they also generally get looked at by the county attorney?

Chair Asing: I believe so.

Ms. Kawahara: Okay, thank you very much. I appreciate it because you would know. Thanks.

Chair Asing: Okay, any further discussion? If not, all those in favor, say aye.

Mr. Bynum and Ms. Kawahara: Aye.

Chair Asing: All those opposed, say no.

Mr. Chang, Mr. Kaneshiro, Mr. Kawakami, Chair Asing: No.

Chair Asing: The noes have it, thank you.

The motion to refer Proposed Draft Bill (No. 2377) to the Planning Commission was then put, and failed passage by a vote of 2-4-1 (Councilmembers Chang, Kaneshiro, Kawakami, and Chair Asing voting no and Vice Chair Furfaro excused and not voting).

Chair Asing: A...

Mr. Kaneshiro: So, Mr. Chair?

Chair Asing: Yes, go ahead.

Mr. Bynum: Mr. Chair, may I ask...

Chair Asing: Wait. I did recognize Councilmember Kaneshiro.

Mr. Kaneshiro: You can recognize him if you want to, that's fine.

Chair Asing: Okay. Councilmember Bynum.

Mr. Bynum: Can we have further discussion?

Chair Asing: Yes.

Mr. Bynum: So the council is moving to kill these bills right now?

Chair Asing: Yes. Well that's the opinion that was given, yes.

Mr. Bynum: The opinion that was given was what?

Chair Asing: I'm talking about the county attorney has some legal issues and...

Mr. Bynum: Which he will address in a written opinion.

Chair Asing: And we're voting on the issue, so whatever you want, go ahead.

Mr. Bynum: Well, let's...go ahead.

Chair Asing: Okay. Councilmember Kawahara.

Ms. Kawahara: I would like to make note that we're killing a bill that addresses a lot of the land use issues that we've been concerned about all term long. I think this bill is a reasonable bill to look at. I also have heard from the council...from the Chair that in general what happens traditionally is that we do pass this through first reading, it goes to the planning commission, to the planning department, and the county attorney gets to also view it. I am disappointed if that's what happens at this...this body does not even bother to try and look at a bill that tries to address a lot of the issues that we are faced with in protecting ag land, conserving ag land, and increasing agricultural self-sufficiency, which is one of the findings and purposes for this bill. It's disappointing that we're just not even going to bother looking at it. I believe these particular bills...I'm wondering if I could address Councilmember Bynum.

Chair Asing: Thank you.

Ms. Kawahara: Can I address Councilmember Bynum with a question?

Chair Asing: Any further discussion?

Mr. Bynum: I think she posed...

Ms. Kawahara: I have a question. May I...may I...

Chair Asing: Yes.

Ms. Kawahara: ...address Councilmember Bynum about the bills.

Chair Asing: Go ahead, whatever you want.

Ms. Kawahara: Were these bills things that had been in the works for a couple of years?

Mr. Bynum: Yes.

Ms. Kawahara: Yes? How...if you could share...if I could have councilmember share for...if I could have Councilmember Bynum share for me, tell me how long these have been waiting to be introduced?

Chair Asing: Yes, go ahead.

Mr. Bynum: May I have the floor?

Chair Asing: Yeah, go ahead.

Mr. Bynum: I've introduced three bills related to the agricultural district. These bills were introduced after many discussions with planners, attorneys, farmers, a dialogue that I've been engaged in for three or four years. The first bill here that we just moved that, you know, our typical process is a bill gets proposed by a member, we approve it at first reading, it gets sent to the planning commission because it's a planning bill for public hearing, and that there's a dialogue that it goes through scrutiny and review. There is a request to the county attorney for legal opinions of these bills. Many bills that are introduced here have legal concerns. That's we do in the public process. We discuss those concerns, we make amendments, we try to address the concerns. I've never seen, in the time I've watched council for many years, to have a bill that's going to be referred to

planning for public hearing be received or be denied. This bill is a simple, straightforward changing of density. Our Council Chair has testified repeatedly over the years that density is the key issue in the agricultural zone about protecting ag land. This is a reasonable and appropriate proposal that's consistent with the General Plan and it's worthy of public dialogue and discussion, and I'm very unhappy that a majority of the council would deny the public an opportunity to address issues that were in the General Plan that are, in my opinion, our marching orders. The General Plan said we want you to address this proliferation of agricultural subdivisions that are for *de facto* residential purposes. This is one of three proposals that I'm putting forward to address that issue. This is one bill. There's two more and I can presume that if a majority of this council decides to support the Chair's initiative to kill the bill right now without any public dialogue, without any public discussion that we will continue to not address residential subdivision...*de facto* residential subdivision on agricultural land as we have failed to address it since at least 2000 when it was a mandate from the General Plan. If we go to the next bill, I'll have other things to say. But it just dismays me that we can't have a public dialogue on reasonable propositions and that this extraordinary measure is being taken by this council right now.

Chair Asing:

Thank you. Councilmember Kaneshiro.

Mr. Kaneshiro: I want to make some corrections on Mr. Bynum's remarks. The Chair did not propose the receiving of this bill. I, for one, had already suggested that when this bill first came on the floor several weeks ago that I've had some problems with these bills. And you know, I'm a farmer, I'm a rancher. I belong to the Farm Bureau. I have never seen this bill before. I wasn't even asked or talked about regarding this bill. There's a portion in the General Plan that talks about density. But in relationship, we've already done that. We took care of the open density in ag land. We recently passed an ordinance limiting density in open land. So that is what the General Plan talked about. We had a problem with open density where one acre or five acres you have one more density. We recently, not even a month ago, passed this. Are we continuing to do this to the farmers, the ranchers? Deny them some densities that I feel that they work so hard for? Is this what this body is sitting here trying to do? Ranchers and farmers have farmed for all of their lives. I've farmed all of my life to be able to buy some ranch land, to be able to afford some ranch land, to be able to make farming successful. I sent my kids through college to try to make them successful to come back and farm and ranch lands. Now, I'm facing bills before me that say now we can't even give more density to them or their kids or to their generations to come. This is what is before us. This is what is right before us today. And I'm sitting here, you know, as a farmer and a rancher just looking at ordinances and proposed draft bills that continuously pick on farmers and ranchers on ag land. Why aren't some of this addressing residential areas then? Why aren't some of these addressing other areas? Why does it always have to be on ag land? You know, we all sit here we say we try to do the best to preserve ag land. You want to try to do the best to preserve ag land is to encourage farming, not to discourage the great American Dream of being able to subdivide your land for densities for your kids, subdivide your land for density for grandkids. This is what we're facing today. And we're sitting here and we're saying this is a good bill? You know, I'm amazed, I'm totally amazed. I say we receive all three bills, you know. Get out there talk to farmers, talk to ranchers, talk to the Farm Bureau, talk to the Cattleman's Association. Let's do that, then we come back and say...and draft some bills. But to draft a bill, you know...I'm totally amazed and I can tell you right now I'm voting to receive all three bills right now.

Chair Asing:

Councilmember Kawakami.

Mr. Kawakami: Thank you, Council Chair, and you know, I agree because when this thing popped up I had a lot of people that I know that are actually farming and these are small local farmers and their question they ask me is what do these bills do. So I didn't know at first, but as I started to look at them I explained to them exactly what they did. And some of the concerns that came up is, hey, you know you guys just allowed TVRs on ag land and now you guys proposing to take this from me and I said, well, we're not, you know...we're going to give it its due process and here it is today. And you know another thing besides the fact that we addressed the ag open, yeah, just three months ago, you know we just recently voted to increase density on ag land through the farm worker housing bill. Well, not necessarily increase density, but we increased the amount of homes that can be built on these ag lands. So I'm just trying to find the consistency and I just don't see it. A lot of the guys that are going to be affected are not the big, you know, rich, big ag landowners. There are...a lot of people that are going to be affected by this are the small local farmers that couldn't afford to build, but have had these lands for generations upon generations. And so I think what Mr. Kaneshiro is saying is exactly right. Go and talk to some of the farmers. See how they feel about this. You know and going back to the General Plan, yeah, it does...it does recommend that as one of the options, I agree. It does. But it also gives you other options too and one of those options is to maintain residential densities at approximately the same level and not necessarily reduce densities but to implement, you know, some policy to improve site planning, to create that openness. So, you know, there are options in that General Plan. It's not just a one-way street and one option and one answer is the only answer. This is a complex issue. Well you know just based on some of the feedback that I've gotten since these bills have been thrown on the table have not been positive. So I'm going to be voting to receive too.

Chair Asing:

Thank you, Councilmember Bynum.

Mr. Bynum: Yeah, clearly Councilmember Kaneshiro has a passionate opinion about these bills. I totally admire that and appreciate that. But in the democratic process you have a dialogue and a discussion, and the bills get discussed and there's input. You say talk to farmers. I've been talking to farmers. I talked to farmers before this came up. I met with the Farm Bureau. I discussed all of this. I'm saying that the General Plan clearly states that the proliferation of agricultural subdivisions, which there are thousands of now, I know because I live on one. I'm one of the people who purchased one because that was the option that we were giving people, but it is contrary to appropriate planning. It's happened at the expense of the urban zone, where we've had very little residential development. We haven't had residential development. How many subdivisions have been created in our towns that have...that are affordable to the working class people to build homes on lots and in the General Plan it says very clearly the continuation of these agricultural subdivisions is happening at the expense or to the detriment of urban densities. Now, when we were making these subdivisions 10 years ago, working people could afford them. It wasn't good planning, but working people could afford them. Now, any new ag subdivision is out of reach of any working class person on this island. The General Plan asked us to address this issue. The planning department brought proposals in 2002 and 2008 that were not enacted and the proliferation of ag subdivisions continue. I really appreciate Mr. Kaneshiro's passion of this and...but if we don't bring the bill forward, we don't have public hearings, we don't have discussion, then the status quo is maintained and the maintaining of the status quo is not in the best interest of Kaua'i. We, in my opinion, we should have dialogue on this issue. If the bill needs to be amended, it can be amended. If the bills are inadequate and there's not a majority, then they won't pass. But to preclude even having this discussion when it's a General Plan imperative that they gave us, and to not even have the dialogue is...you know, so then let's address this bill specifically. It would make the densities the same as

they are in every other county in the State of Hawai'i, okay. They do...would preserve ag land. As Councilmember Kawakami has pointed out, we passed a farm worker housing bill so if there's a need for farm worker housing, that's an option that wasn't there previously. So, you know, this is about the proliferation of three and four lot...two- to three-acre lots that have very large homes on them that we all know have little or nothing to do with agriculture. The...and I believe there will be support from farmers. You know, that's the way you do this process. You put the bill forward, it's a proposal. You get everybody's mana'o, you get input from farmers and from ranchers and realtors and then you say, hey, it has this unintended consequence, how do we address that and you make changes to it. So, this is Planning 101, at least the first two of these bills, and they deserve to have the public process and the public dialogue. Now, we're just talking about the first bill here, but this is a straightforward clearly in the purview of the county to set residential and agricultural densities. As I said, this density would make it consistent with every other county in the state. But what the council's voting is to say oh, we can't even have the dialogue, you know. We can't even have the discussion. It ends today without any due consideration, without input from those groups that everybody has just talked about. So, you know, we'll see what happens.

Chair Asing: Thank you. Councilmember Kawahara.

Ms. Kawahara: This bill just got...I guess, right, we're just talking about after the vote. Everybody...it got voted down.

Mr. Chang: No.

Ms. Kawahara: We all voted 3-2. Could I get a... Chair, was it 3-2?

(?): 4-2.

Ms. Kawahara: Oh, 4-2, okay.

Mr. Bynum: 4-2 to not refer the bill to the planning department for discussion.

Mr. Kaneshiro: Correct, correct.

Mr. Bynum: For review, for public input, for consideration.

Mr. Kaneshiro: I'm not certain you can go to that extent.

Chair Asing: Go ahead.

Ms. Kawahara: Do I have the floor?

Chair Asing: Yes, you have the floor.

Ms. Kawahara: Thank you. One of the coolest things about being a councilmember that I've learned over the year and a half that I've been here is that when bills come to the floor, they are able to get aired and they are able to be discussed and the whole community is allowed to step in and read for themselves and to decide for themselves if they like or don't like a bill. Nobody unilaterally decides not to look at something and when it happens that we do unilaterally decide to not look at something in this case 4-2, I feel really, really sad that these aren't even things that are going to be out there for the public to even think about. What Bill 2377...this one isn't the residential one, yeah? Several of these bills do...is address residential subdivisions on ag land, many or what we like to call or people

like to call gentleman farm estates. We've heard about it all during the debate on the TVRs. We've heard about it all throughout every election about how everybody who wants to be elected wants to do something about gentleman farms on ag land. By not even letting these bills come to light so that people can look at them is such a disappointment. Again, these...the first two bills 2377 and 2378 we're not discussing are all Smart Growth policy things that deal specifically with the challenges that come with development and ag land. So, on a 4-2 vote we have decided that we don't care about this particular bill or trying to address ag land and development on ag land and gentleman estates on ag land in this particular bill at this particular time we don't even want to bother to look at it. Very unfortunate.

Chair Asing:

Thank you. Councilmember Kawakami.

Mr. Kawakami: You know, a couple weeks ago we all made a motion to put this on the agenda with the thoughts that hey, you know, if it doesn't make sense to us we vote it up, we vote it down, we heard people say they'll respect the process, but now not so. You know that's why I'm voting no because it just...it doesn't make sense and I stated my case. Now the whole talk about not letting the public get involved, well what do you call this process? It's on the floor now? You know, it...I'm sorry that it doesn't go to the level of extent that you want, but it's been sunshined, it's been put on the agenda, there was a whole...you know, there was a whole big deal about it getting on the agenda in the first place. So, this is part of the public process.

Now, you know, I keep on hearing that, hey, you know, it's always been just to refer it to planning automatically. But, you know, that is the status quo and I've heard things being said that hey, you know, we can't always follow the status quo. So if we're going against it, we're going against it, but that's a process. But to say that it doesn't get the public input that it warrants, this is the public process. This ain't executive session. This is out on the open floor. We're discussing it now. Thank you.

Chair Asing:

Thank you. Councilmember Kaneshiro.

Mr. Kaneshiro: You know, people of Kaua'i, what we're seeing here today is what we heard from the county attorney. There are some concerns about this bill. You know, I've heard Mr. Bynum talk about having these bills or items referred to the county attorney, but I can tell you something. There are certain aspects of this bill that I believe the county attorney did not get to see until this was introduced on the floor two weeks ago, and I'm concerned about this. People of Kaua'i, that's what I'm concerned about, you know. We can have this debate later. But when you have a county attorney that sits up here and say that he does have some big concerns about some of these bills that perhaps he'd never seen in the final form that the bill is drafted out today is a concern I have. And until that process takes place, I believe, you know, people of Kaua'i, for me, you know, I'm here to protect each and every one of you on liability issues. That's the big deal. Whether I farm or not, whether I'm a farmer or not, whether it takes away density from me, fine and well, I mean if that's the decision the council wants to make, that's the decision the farmers want to make, that's the decision everybody else wants to make, fine and well. But we got a process going on that there is some legal concerns that can cost each and every one of you taxpayers some heartache and that's the concern I have. And until then I say we receive all three bills, get the county attorneys look at the drafted bills that came before us, the drafted bills coming before us, whatever drafted bill it is...that he had, have them review it, the drafted ones first rather than drafting the bill and then have the county attorney look over it. I mean, I'm telling you, people of Kaua'i, it's about legal issues too that we're concerned about.

Chair Asing: Thank you. Are you making that motion?

Mr. Kaneshiro: I'm making a motion to receive this bill.

Chair Asing: You have a second?

Mr. Chang: May I say something before we...before I second the motion?

Chair Asing: Go ahead.

Mr. Chang: I just want to say...

Mr. Bynum: Wai – wai – wai – wai – wait.

Chair Asing: Go ahead.

Mr. Bynum: Excuse me.

Chair Asing: Discussion.

Mr. Bynum: We're on the first bill, correct?

Chair Asing: Yes, on the first bill...on the first bill.

Mr. Chang: Chair, chair, all I wanted to do is just address the audience here and the viewers. Two weeks ago we made a motion to accept this on the agenda, and the concern back then was okay, we're going to put it on the agenda with the respect to having an opinion by the county attorney. If the county attorney is telling us today that he has a problem or concerns with all three bills, then I don't know what else to say except, you know, we're adhering to his professional opinion. And we all wanted it to get on the agenda for discussion, but if the county attorney is telling us that he has concerns, if he has concerns, I have concerns. That's all I need to say, thank you.

Chair Asing: Thank you. Go ahead, Councilmember Bynum.

Mr. Bynum: Okay, can we have the county attorney back up, please.

Chair Asing: Yes. Ah, why don't we have Al up because...get Al, please. A short recess.

There being no objection, the meeting was recessed at 11:54 a.m.

The meeting was called back to order at 12:14 p.m., and proceeded as follows:

Chair Asing: The meeting is now called back to order. With that, what I'd like to do is have Councilmember Kaneshiro restate the motion.

Mr. Kaneshiro: Okay, Mr. Chair, the motion would be to receive all three bills. I believe all three bills were read by our clerk, so the motion will be to receive all three bills.

Chair Asing: Thank you.

Mr. Kaneshiro: I know Mr. Bynum made a motion to refer one of the bills to the planning commission, but the motion on the floor that I would ask for a second is to receive all three bills.

Chair Asing: Okay, can I have a second?

Mr. Chang: Are you going to recognize Mr. Bynum first? I'll second the motion, but he raised his hand before me, so.

Chair Asing: Okay, go ahead.

Mr. Bynum: I don't object to the second.

Chair Asing: Okay.

Mr. Chang: Okay, I second the motion.

Mr. Kaneshiro moved to receive Proposed Draft Bill (No. 2377), Proposed Draft Bill (No. 2378), and Proposed Draft Bill (No. 2379) for the record, seconded by Mr. Chang.

Chair Asing: Okay, Councilmember Bynum.

Mr. Bynum: I just...I've never been here at the council where we read all three bills at once. I've never seen a motion to receive three bills at once, but if that's legitimate as long as we have time to discuss. When we broke I was asking for the county attorney to come up, so may I do that at this time, Mr. Chair?

Chair Asing: Sure, sure.

There being no objection, the rules were suspended.

Mr. Castillo: County Attorney, Al Castillo.

Mr. Bynum: Thank you, Mr. Castillo. You agree that planning bills are complex, yes?

Mr. Castillo: Yes.

Mr. Bynum: And any planning bill that was going to make changes to the CZO, you would have legal concerns. Is that correct?

Mr. Castillo: That is correct.

Mr. Bynum: And any planning bill that came before you, you would potentially have constitutional concerns.

Mr. Castillo: That is correct.

Mr. Bynum: And those concerns could be addressed through a public process with amendments and discussion and input from a variety of people.

Mr. Castillo: Yes, as the council.

Mr. Bynum: Thank you.

Chair Asing: Thank you.

Mr. Castillo: You're welcome.

Chair Asing: The meeting is called back to order.

The meeting was called back to order, and proceeded as follows:

Chair Asing: We have a motion to receive three bills; we have a second. Any further discussion? Councilmember Bynum.

Mr. Bynum: Thank you, Mr. Chair. The first bill...there's three bills. The first bill changes the density on agricultural land and would make it the same as other counties. In my opinion, it's clearly within the county's authority to set density in agricultural zone or the residential zone or any zone. The second bill is to require a Class IV hearing for agricultural subdivisions. That bill was proposed in 2002 by the planning department. They proposed to build and included Class IV for subdivisions. It was proposed in 2008. It's not an idea that I came up with. It...the bill that's before you with a few minor exceptions was written by the planning department and proposed by the former mayor. The third bill addressed the building size or the building envelope size in the agricultural district similar to the conservation district where the state says that in the conservation district only certain sized dwellings can be built. These are all bills that are reasonable and for discussion and we just heard the county attorney say that virtually any planning bill that came before the council would have concerns, legal concerns, and that those legal concerns could be addressed in public process that at this time it appears we won't have. I would encourage the members of the public to read the General Plan, particularly Chapter 5 where it asks us to address the proliferation of agricultural subdivisions on agricultural land that are gentleman estates or *de facto* residential, and I would...yeah, so apparently these bills are not going to have a public process to address the legal concerns. And we will continue to have...and continue to not address the concerns that the 2000 General Plan asked us to address. Thank you.

Chair Asing: Thank you. Councilmember Kaneshiro.

Mr. Kaneshiro: Thank you, Mr. Chair. One of the points I wanted to make is that Mr. Bynum mentioned about comparable to a conservation plan or conservation district where you can build a house with a CDUA permit. But when you look at the conservation district, for one thing what we have before us, Mr. Bynum's proposal, is 2500 square feet which includes the house with a lanai and deck. What the conservation area has for the CDUA permit is a 3,000 square foot house for anything under an acre and anything over an acre you can go up to 5,000 square feet. Look at what we have before us, 2500 square feet limit. It doesn't matter if you have a hundred acres of land or a thousand acres of land. You are limited to 2500 square feet residence. It doesn't matter if you have 10 kids or 12 kids, you are limited on 2500 square feet. That is what is before us today, you know. This is right before us today. We talk about the General Plan. Granted, look at the General Plan, it was written in 2000, the year 2000. I sat here. I was the planning chair of this committee...of the council when the General Plan was passed. The General Plan also mentioned that ADUs on ag land should not be allowed, which, I believe, we did. We passed an ordinance that does not allow that. The General Plan also talked about open districts with too many density and as Mr. Kawakami pointed out, three months ago we passed an ordinance pertaining to that. The General Plan also mentions yes, limit density, but at the same time give bonus for clustering. This bill we have before us does not address any of that. This bill we have before us is plain and simple. Limit density in ag lands to no more than one per subdivided parcel. Limit your house size now to not more than 2500 square feet without a use permit. So me as a farmer now I want to build a

house more than 2500 square feet, gotta take time off, come testify for a use permit just to build a house even though I have a 10-acre parcel that I'm legitimately farming on ag land and get a use permit. That is what is before us. And we talk about a Class IV zoning permit for subdividing. What about a poor family that just wants to divide one lot into one acre each. We now gotta get a Class IV Zoning Permit. That is what is before us and it's right here before this body to vote on today. And that is why I say we receive all three bills until these bills can make sense.

Chair Asing:

Thank you. Councilmember Bynum.

Mr. Bynum: Just to clarify a couple things. I guess we're...this is the only discussion we'll have about this, but that...the 2500 square feet, this was a starting proposal. We just passed a farm worker housing bill that limited a farmer to 1200 square feet maximum size. Maybe it should be five...what is the right size? Five thousand square feet? Ten thousand square feet? You know, unlimited? You know, Council Chair, did a presentation just a few weeks ago showing 10,000 square foot farm dwellings on ag land and said that that was highly inappropriate. Is it highly inappropriate to have a discussion about what the proper size should be? And I'm glad Mr. Kaneshiro added that it doesn't limit it to 2500 and that was the opening proposal. If we had continued this process, Mr. Kaneshiro could vote against the bill, he could change that to be consistent with the open zone...I mean with the BLNR, who limits sizes of houses. You know, that's the whole point of the public process. Mr. Kaneshiro also said earlier that these bills were sprung on him and that he hadn't seen them until they came on the agenda. Well, isn't that what the Sunshine Law says that we're not supposed to solicit the bills amongst ourselves in advance? That we're supposed to save it, work on the proposal, bring it forward for public dialogue, for public input, for public hearing, none of which will happen with these bills at this time, so.

Chair Asing:

Thank you.

Mr. Kaneshiro:

May I respond to that?

Chair Asing:

Go ahead.

Mr. Kaneshiro: You know, I stated that as a farmer and a rancher because I heard Mr. Bynum make a statement that he did talk to farmers and a rancher. I wasn't given the opportunity as a farmer and a rancher, nor a Farm Bureau member. I can tell you right now I am a Kaua'i Farm Bureau member, also the Kaua'i Cattleman's Association member. We had not had the opportunity in those agencies to have any discussions of any of these proposed bills. So, whether I've seen this bill in the current form or not is not the question. The point is...what I was making is that he made a statement that he conferred with farmers and ranchers; he conferred with the Farm Bureau; he conferred with, you know, different agencies. I can tell you right now as a member of the Kaua'i County Farm Bureau, none of this was brought to the table. I can tell you that. Maybe he talked to one member, but we're a bulk of members, man. We're a bulk of farmers, you know. We're not just a one-member organization. There's hundreds that make up the Farm Bureau. There's hundreds that make up, you know, other agencies. So in all respect, you know, all I was saying that, you know, if you make statements like that, me as a farmer that has never heard of it or any of these proposals, it's not about a Sunshine issue for me because he can talk to me individually about it. It's not a big deal. Sunshine is not going to come in and make opinions about that, you know. I'm just trying to clarify the statements that were made on the floor, that's all.

Chair Asing:

Go ahead, Councilmember Bynum.

Mr. Bynum: I'll just stick by what I said. I have met with farmers and ranchers. I did meet with the Farm Bureau. I requested a meeting, had agenda time. I didn't discuss every single proposal. I discussed the Class IV zoning proposal which was circulated in 2008 to the community. It's not a new proposal. It's not even my proposal. It's just one that I think deserves consideration. So, you know, it's very clear that this majority of the council is not going to allow public...you know, a public process to occur on these bills, so at this time. So, I'll go back to the drawing board, but I can guarantee you I won't stop trying to address what I consider our responsibility as given to us by the public in the General Plan. He mentioned open density bill. It took 10 years...10 years and you know, I've done a presentation here before, I hope to do it again in the future of what occurred during those 10 years. We do have in our county public record. We have transcripts of meetings, some of which are posted on the web right now on my website because they're not on the county website and you can look at the transcripts in 2000 and in 2002 and in 2008 and what the discussion was and what councilmembers said. These are not new proposals. They're not being sprung on anybody. They're our marching orders. So I accept...you know we can get to the vote or we can keep talking, but, you know, these... I just think it was a few weeks ago I put up on the board a graphic illustration of what has happened on agricultural land starting on the north shore spreading all the way to Keālia. Now that we have the west side out of production, are we going to have those lands turned into two- and three-acre subdivisions? I had a developer say to me I don't know why you guys developed all on the north shore, man. This west side is gorgeous and it's sunny all the time. You know, are we going to open up the west side now? There's nothing that prevents it from occurring unless we address these regulations and yeah, planning regulations are difficult and they impact people and so we get to hear from those people and make adjustments. So, this is...this issue's not going to go away. You know, the people of...the people here and I believe there's a widespread consensus said, we want to keep Kaua'i special. We want to preserve the land in-between. We want to put energy into our towns, which happens to, by the way, be consistent with sustainability, with environmental protection. You know, one of the documents on my website is from the EPA that says what are the most important planning issues for rural communities in terms of sustainability and the first chapter of that document is called Avoid the Devil's Density. Stay away from two- and three-acre parcels. So, you know, we're not going to move forward with that discussion now, but we need to have it.

Chair Asing:

Thank you. Councilmember Kawahara.

Ms. Kawahara: Okay, I find it an incredible shame that we're going to put all three of these and receive them. I personally as a legislator did come onto the council saying, I wanted to address issues on ag land. I wanted to address issues about gentleman farm estates on ag land. I wanted to talk about density on ag land. These are the tools on which to...with which to have that discussion by... I just want to say I'm ready to do it. I'm ready to discuss these. I'm ready to discuss these bills. I'm ready to actually try and put more stringent controls on the use of ag land; it is so valuable. It is, again, disappointing that four votes...we have four votes to turn down even looking at them, but like I said I'm ready to go. Please, let us do this, let us get some definition and let us get some more stringent controls on gentleman farm estates. We're not going to be able to do it. I will go by the majority vote, but I am extremely disappointed. All I can say is I'm...I was ready to go. These bills are good to go. They're ready to be scrutinized by the planning commission, by the planning department, and the county attorney. I also wanted to clarify the county attorney did not say he did not think these bills should pass first reading, he just said that would be a policy issue of the council. So, it's not the

county attorney's intention to say these should be killed now and I believe he also said that there...that any bills that are introduced the county attorney would have constitutional concerns about. So, I'm just asking my fellow councilmembers to please let us go to work on these bills so that we can address the issues stated in the General Plan and also for me, the gentleman estates on ag land and density on ag land.

Chair Asing: Thank you. With that, Councilmember Kawakami.

Mr. Kawakami: Okay, thank you. So, since we're taking them all together, my reason for opposing the bill to limit farm dwelling size to 2500 is simple. It has nothing to do with the county attorney's opinion. I appreciate their opinion because I understand and respect that they're our advisors and they'd like to keep us out of trouble, but have we gone against the county attorney's opinion as an independent legislator and policy maker? Many times, so that's not the basis of why I'm voting these down. But as far as the farm dwelling size, I made it clear I don't have a problem with people who have worked hard, gained some success, they want to achieve the American Dream of building a big house, more power to them. Hopefully one day I'm successful and I can build a big house too. So that's the reason why I'm voting it down. I just think it's almost unconstitutional, you know, to just limit it down to 2500. I mean where does that number come from? And just philosophically I don't have a problem with big homes, you know. We have certain restrictions in residential areas. I think the lot coverage has got to be 50% because we're dealing with one of those things right now and I don't have a problem working within those parameters. But 2500 square feet, where does the number come from and you know, quite frankly I just don't have a problem with it.

As far as requiring a Class IV zoning permit for ag subdivisions, you know, the way we handle subdivisions now is there's a checklist and you basically go in, you apply, you hit these benchmarks, and you get your approvals. Now whether you think that's right or wrong is, you know, up to each individual, but that is the process.

Now, we've heard in the TVR bill that eh, we gotta take care of these guys because there are certain people that ordered their lives around the thought that eh, they were operating legally. But what about the little guys that were ordering their lives around the fact thinking that they could build homes for their kids one day? You know what about those guys?

So that's just where I stand with the issue. There are some local people. I cannot, you know, in good conscience say that eh, we just passed a bill allowing TVRs on ag land and here we are we're going to take away opportunity from some of the smaller landowners. Yeah, there's some big landowners out there also. How many? I don't know. Did we do the research? I'm not sure how many subdivision proposals are coming through right now. But you just have to weigh the opportunity cost and for me it just doesn't pencil out and it has nothing to do with the county attorney having concerns on it, though I appreciate him coming up and saying that he's concerned about it. It's just based on my own merits of what I think is right. Does it make sense, does it pencil out? For me it doesn't. I respect Councilmember Bynum's proposals. We're all individuals. We come from different walks of life. We see things through different eyes and I just happen to see it differently than he does. So I respectfully will be voting against these proposals.

Chair Asing: Thank you. With that, roll call please.

Mr. Bynum: I'm sorry, what's the motion again?

Chair Asing: To receive all three bills.

Mr. Nakamura: The motion is to receive Proposed Draft Bills (Nos. 2377, 2378, and 2379).

The motion to receive Proposed Draft Bill (No. 2377), Proposed Draft Bill (No. 2378), and Proposed Draft Bill (No. 2379) for the record was then put, and carried by the following vote:

FOR RECEIPT:	Chang, Kaneshiro, Kawakami, Asing	TOTAL - 4,
AGAINST RECEIPT:	Bynum, Kawahara	TOTAL - 2,
EXCUSED & NOT VOTING:	Furfaro	TOTAL - 1.

Mr. Nakamura: 4-2, Mr. Chair.

Chair Asing: Thank you, motion carried. Next item please.

Mr. Nakamura: Next matter is a Bill for Second Reading, Bill No. 2368.

BILLS FOR SECOND READING:

Bill No. 2368 - A BILL FOR AN ORDINANCE AMENDING ORDINANCE NO. B-2010-705, AS AMENDED, RELATING TO THE OPERATING BUDGET OF THE COUNTY OF KAUAI, STATE OF HAWAII, FOR THE FISCAL YEAR JULY 1, 2010 THROUGH JUNE 30, 2011, BY REVISING THE SURPLUS AND APPROPRIATIONS ESTIMATED IN THE GENERAL FUND (\$220,000 - *Council Services*): Mr. Kaneshiro moved to adopt Bill No 2368 on second and final reading, and that it be transmitted to the Mayor for his approval, seconded by Mr. Chang, and carried by the following vote:

FOR ADOPTION:	Bynum, Chang, Kaneshiro, Kawahara	
	Kawakami, Asing	TOTAL - 6,
AGAINST ADOPTION:	None	TOTAL - 0,
EXCUSED & NOT VOTING:	Furfaro	TOTAL - 1,
RECUSED & NOT VOTING:	None	TOTAL - 0.

Mr. Nakamura: Six ayes, Mr. Chair.

Chair Asing: Thank you, motion carried. There being no other items on the agenda, the meeting is adjourned. Thank you.

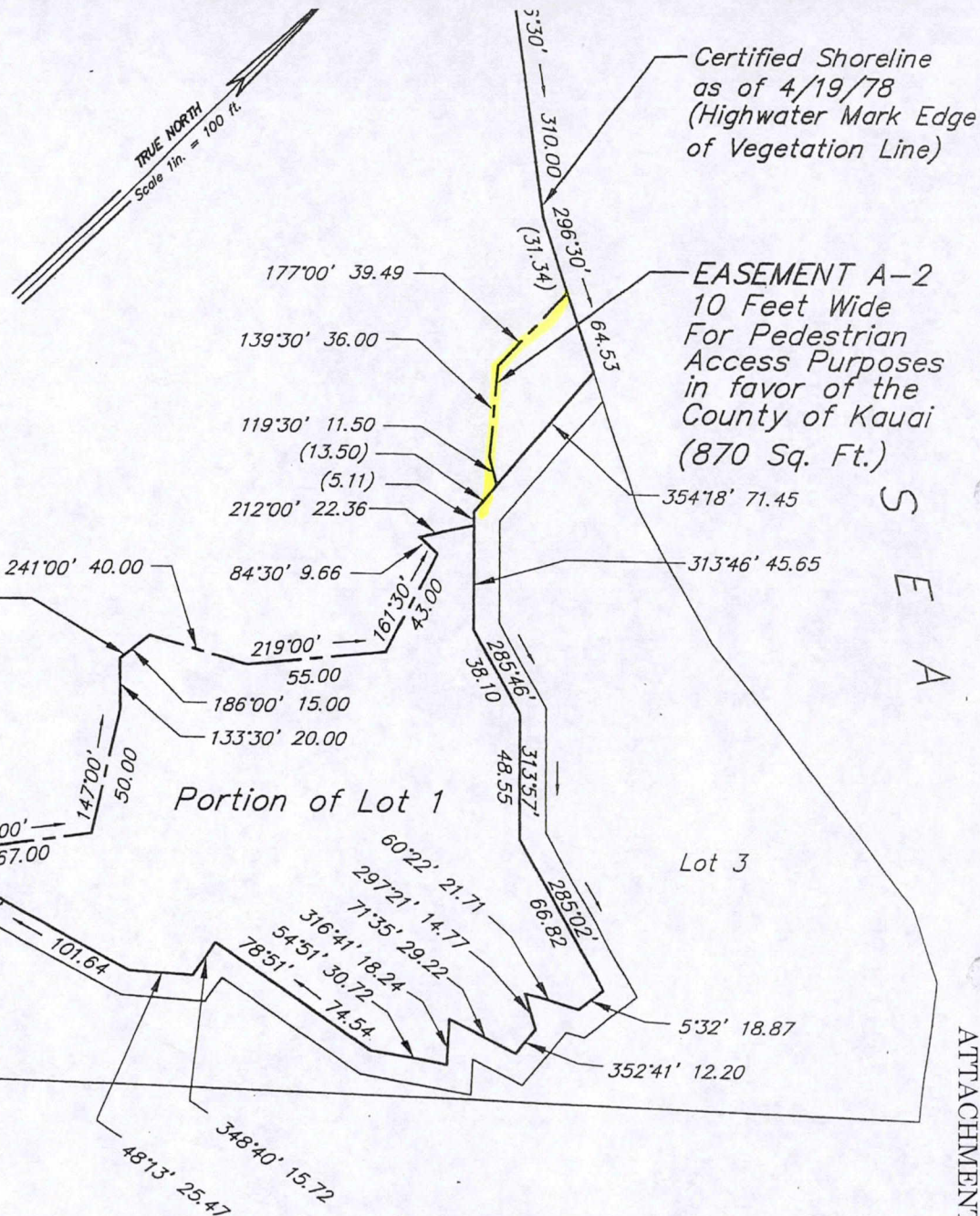
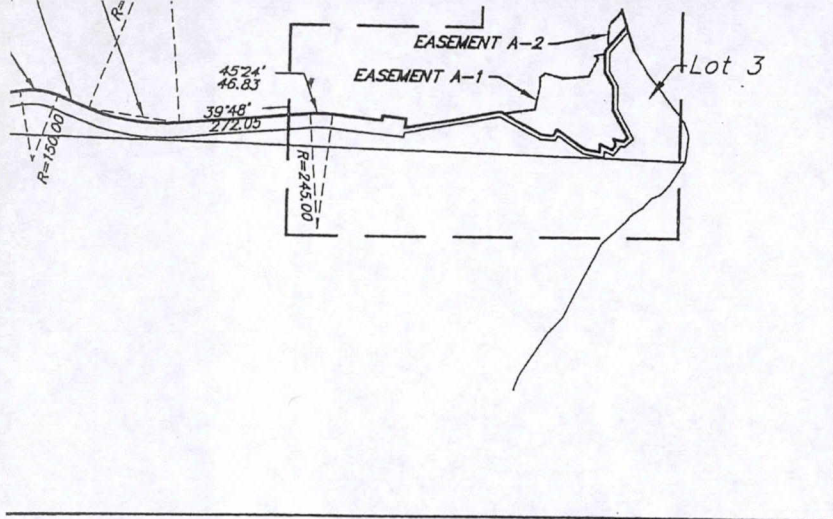
ADJOURNMENT.

There being no further business, the meeting was adjourned at 12:36 p.m.

Respectfully submitted,

  
PETER A. NAKAMURA  
County Clerk

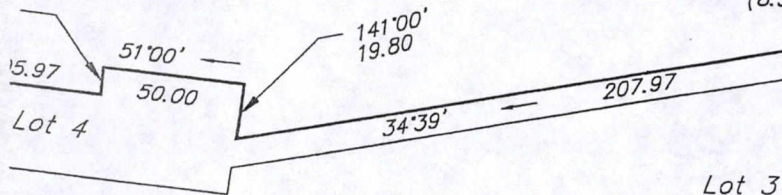
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ion of Lot 1

EASEMENT A-1  
10 Feet Wide  
For Pedestrian  
Access Purposes  
in favor of the  
County of Kauai  
(3,220 Sq. Ft.)  
(8.51)

Portion of Lot 1



ENLARGEMENT

Scale 1" = 50'

ATTACHMENT NO. 1

2010-174  
B  
PPING

Land's proposal

Legal Doc C2010-174 m 8 25-2010

21" x 32" = 4.67 Sq.